Supreme Court, U.S.
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No.

SUPREME COURT OF THE UNITED STATES

GERALDINE MILLS, M.D.

Petitioner,

v.

RHODE ISLAND MEDICAL BOARD OF LICENSURE AND BRUCE W. McINTYRE

Respondent

On Petition for a Writ of Certiorari to the Supreme Court of Rhode Island

PETITION FOR WRIT OF CERTIORARI

January 11, 2004

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QUESTIONS

Are there substantial due process questions as to render it unconstitutional under the Due Process and Equal Protection Clause of the Fourteenth Amendment under 28 U.S.C. 1257?

Is due process denied when Appellant is informed by Counsel for the Medical Board that she will receive her mental health evaluation only from the Board/not be permitted to see her own medical record from the evaluator (Violation of Federal HPAA and RIGL?)

Was Appellant denied due process when reports were made to the NPDB (National Practitioner Data Bank, Florida Medical Board and others that Appellant has a " mental disorder" (doing so prior to a hearing and after the hearing with no evidence on the record below to substantiate the statements)?

Was due process denied when Hearing Officer/McIntyre for Medical Board denied all supporting evidence to determine what facts on the record were credible and which were not(Appellant, Board's one "expert" and two witness families?

Was due process denied Appellant and was it conflict of interest for Attorney Sheldon Whitehouse to file C.A. No: 00-229 against Speedy Oil, Inc et al and then represent the Medical Board and McIntyre in this instant case denying Appellant this information to support her testimony and to counter false allegations that she was " bizarre and irrational/delusional to believe the contamination of her property existed?

Was due process denied Appellant when Counsel Bruce McIntyre held many positions at Medical Board with tenure lasting more than twelve years whereby exerting undue influence on Hearing Panel: 1) was a witness to matters not privy to anyone except Appellant and himself, 2) directly investigated all matters and aided the two mother witnesses in altering the

complaint in one, convincing the other to write at all(with tampering of tape recording) 3) was prosecuting counsel for/on Medical Board at same time as Counsel for Director of Health, 4) held position of Acting Chief Administrative Officer two years simultaneously with these positions

Was due process denied Appellant when McIntyre/board altered own witness testimony (state child abuse investigator);allowed "expert's" testimony (hearsay of layperson, possibilities, no notice given)?

Was Appellant denied due process when McIntyre denied her all supporting evidence and witnesses ex: alleging Appellant placed Yale and Brown on her CV/resume (allege to Hearing Panel) then not allowing her to submit the resume/CV to support her claim (CV was part of RI Hospital application so should have been part of record below)

Was Appellant denied due process when McIntyre refused at all times from September 28, 1998 until September 21, 1999 to give Appellant a list of names of " evaluators" pre approved by the Medical Board, keeping Appellant "hostage" to the situation? (With no time limits under APA?)

Was Appellant denied due process when McIntyre/Pitassi of Medical Board on October 7, 2002 wrote to NPDB that Mills has a " mental disorder" on October 7, 2002 after the review of 6 mental health evaluations all stating Appellant is competent to practice Medicine and has no psychopathology?

Does conditional privilege exist for the Medical Board's witnesses when with intent to harm and with malice they made false allegations about Appellant and continue to do so(perjury)?

What is the real nexus between parties Brown, Cinquegrana, McIntyre - private parties, state actors or private parties working with a state official?

Was it unconstitutional for the Board/McIntyre to not allow Appellant a fair and meaningful hearing and one within ten (10) days of temporarily suspending her (with the specification of charges and adversarial witness list afforded her as per R.I.G.L.)?

Was Appellant denied due process when prior to a hearing the report of " indefinite suspension" was made to a myriad of organizations including newspapers, insurance companies and private patients' homes?

Was Appellant denied due process when her right to a full and fair hearing not prejudiced by the publishing of a notice prior to the hearing process starting and therefore before being completed?

Was Appellant denied due process when not being given the complaints in the " unaltered" form as written by the parent mother/ not being given the father's complaint for more than ten months?

Was due process denied Appellant when McIntyre made an agreement with Harwood (then Speaker of House State of R.I.) for Appellant to see one more Psychiatrist in Massachusetts and then claims to have never made the agreement (Appellant was again evaluated at a cost to her not covered by her health insurance), and alleges the Psychiatrist was " not competent?"

Was due process denied Appellant when page 12 of the Administrative Decision reads, " ...did not get along with the evaluator and/or is treating with a Psychiatrist...." (Appellant got along with all evaluators/was not in treatment with a Psychiatrist and no evidence on the record to support these false allegations?

Was Appellant's license and property interest deprived her without due process by acts of misconduct/violation of RIGL/APA/Federal Law by McIntyre and RI Medical Board?

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INTRODUCTORY PARAGRAPH

Appellant, Geraldine Mills, M.D. is appealing from the judgment below as ordered by the Rhode Island Supreme Court in the case of Mills v Rhode Island Board of Medical Licensure and Bruce W. McIntyre, Esq et al, and so signed on November 23, 2004. This petition for Writ of Certiorari is submitted to show that this Honorable United States Supreme Court has jurisdiction of this appeal and that substantial questions are presented.

CITATIONS TO OPINIONS BELOW

The Rhode Island Supreme Court denied Appellant Mills an appeal from the lower court's decision of June 19, 2001 (three years five months later) restating that the case could not be addressed because it had a "civil rights and administrative flair to it," and that no findings of "indiscretion" were found with regards to the actions of one Bruce W. McIntyre, Esq (McIntyre). The Rhode Island Supreme Court furthered that Appellant was bringing up a claim of "misrepresentation," that had not been brought prior to her appeal. The Rhode Island Supreme Court did however, on June 4,2004 grant Mills a motion to attach documents to her supplemental memorandum (Appendix D)

JURISDICTION

This case falls within this Court's Jurisdiction under 28 U.S.C. 1257 (a) and offers an ideal vehicle to resolve the questions presented. This Court has jurisdiction under " fourth Cox category" to review state court ruling if 1) "reversal of the state court on the Federal issue would be preclusive of any further litigation on the relevant cause of action," and 2)refusal immediately to review the state court decision might seriously erode federal policy." Cox Broadcasting Corp v Cohn 420 US 469, 482-83 (1975), for application of this general jurisdiction rule. Petitioner if so favored by this Court would deem the state law causes of action by the Rhode Island Superior and Supreme Courts unconstitutional as so applied. A litany of events engaged

in by McIntyre, and which resulted in deprivation of substantive and procedural due process of Appellant (Mills) were so set forth soon after Mills brought claim against John J. Cronan, MD (Cronan) Radiologist at Rhode Island Hospital (RIH) owner of an MRI imaging(credentials coordinator for Mills' hearing to obtain privileges at RIH March 31, 1994). It is not the number of references to all those acts engaged in by McIntyre (Appendix) that governs but rather the substance of allegations and nature of their motivations which have been found by Mills to be replete with malice. Thus having alleged certain facts as against McIntyre implicating him in his individual capacity, and during his tenure in so many positions at the board, actionable misconduct by those people involved, that is civil rights. Jurisdiction of the state court was also invoked under Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972 U.S.C. 2000 and under 28 U.S.C. 1331.Mills was denied her procedural, civil, constitutional rights as allowed by the Fourteenth Amendment and denied her appeal. She was allowed evidence by order of Court June 4, 2004 with defendants waiving their right to oral argue against(evidence denied in Nolan vs Mills). It is stated by Defendants in record below that Appellant did not " label her causes of action." Without legal representation, due to financial reasons and hesitancy of counsel due to "political overtone," understandably Mills not being an attorney, did not label her causes of action but she should not be held to the standards of counsel. According to Rules of Civil Procedure 8 (e), " no technical forms of pleading are required. A pleading is sufficient if it contains 1) short and plain statement of claim showing pleader is entitled to relief 2) demand for judgment (RCP 8(a))." The issue then becomes whether Appellant had to exhaust administrative remedies. The US Supreme Court in Palazzolo petitioner vs R.I. June 28, 2001 affirmed that the " exhaustion of administrative remedies will not be required where to do so would be futile." Defendant admitted in court there is virtually no time requirements of the board (questions constitutionality of APA)Burns v Sundlun RI 617A.2d 114,117

Board. This itself warrants an examination to constitutionality. RIGLaws read in several places that with regards to a physician's livelihood and in matter of professional licenses, these matters must be heard in "expeditious manner" even with respect to court's docket time, " must take precedent."

First though, the Defendants would now say this is moot because those remedies have been exhausted and Appellant has not been favored in the lower court. However, the decision does not "cancel out" the instant case because 1) Bruce W. McIntyre the individual cited in this case is the very individual who did not permit Mills to submit any supporting evidence or witnesses during her hearing before board's panel. Had she been allowed the outcome should have been very different. At minimum what would have resulted is an outcome not unlike that of her hearing at RI Hospital for Pediatric privileges, wherein all her witness testimony was removed from the record. Letters of recommendation were altered, some never placed on the record at all (Mark Hough Senior VP of St Joseph Hospital letter of recommendation deleted from record as well as March 24, 1994 letter of Dr Philip Carling Residency Director Internal Medicine Carney Hospital).

This became a case of one individual representing the RI Medical Board committing acts of misconduct, malfeasance, and misfeasance. " It is well established within the law that when an agency acts in contravention of the regulations that govern it, it acts in violation of the law." (Paul vs US 1963) Mills pled legally cognizable causes of action in tort. In a supplemental statement @ pg 6 of 6, it reads, " McIntyre is totally responsible for Plaintiff's lost property interest for the humiliation and embarrassment undergone for statements given to others that she is according to him " mentally impaired."

McIntyre has stated Hobson represented Board as counsel (AHO) and made all decisions as to supporting evidence and witnesses. This is the procedure that must be followed by the state agency but in reality it was not abided by at all. McIntyre submitted affidavit of Bowerman(Mills' first counsel) (July 2003) after close of discovery while denying Mills all evidence.

"Actionable misconduct" began with the threat of the " full investigation" into why Mills did not report an injury on a 2 year old girl to DCYF (girl was cared for by Kent hospital ER physician and for 2 weeks by in house physicians with Mills never being informed [Mills' cousin's name Keith R Mills was placed on ER record even though he never practice in RI]; no doctors at Kent found the need to report the injury to DCYF. Next was threat of full suspension (Jaqueline Landry at board made call) regarding Mills' renewal form for her medical license. The allegation was that the "G" in G Mills, M.D. did not appear as her " G,"though every check prior and since has the same " G.". At the time Appellant was unable to see the whole picture as to why these very "bizarre" things were happening to her. The picture is now complete. The Court stated Will vs Michigan Dept of State Police et all 1989, controlled, precluding civil rights claims being made against the state itself; without addressing Governmental tort claim liability act or the fact that one of the Defendants, McIntyre was an individual. It is not mere mistakes of facts or errors of law but claims of malfeasance and misfeasance motivated by bad faith. In seeking to deprive Appellant of her right to engage in her chosen livelihood as pled below, there is no statutory immunity for this Defendant, in particular, McIntyre. It is his actions in particular as an investigator and member of the investigating committee (EXHIBIT E 1 pg 91a where he clearly admits his positions on the board), lawyer for and on board(even questioned by court Justice Silverstein March 16, 2001), Acting Chief Officer for Board, that are in question here. First is tenure: RIGL section 9-31-1 in fact provides the state of R.I. and any political subdivisions thereof including all cities and towns; " shall subject to the period of limitations, hereby, be liable in all actions of tort in the same manner as a private individual or corporation. The state has thereby waived its sovereign immunity in tort." In Andrade vs State of R.I. 1982, it concluded that the plain meaning of the words is that the state has rendered itself liable to the same extent as other tort litigants. Appellant implicates McIntyre as an individual and sufficiently sets forth

this "litany of events" as Defendant called it, which resulted in the deprivation of substantive and procedural due process of the Appellant. It is not the number of references (which only because of the intent and willful disregard for the law are numerous as such to be characterized as a litany of events) but the nature of their motivation which Appellant has found to be replete with malice. In Patrick vs Burget 486 US Supreme Court ruled, " state officials do not have exercise of power to disapprove those private parties anti competitive acts and to disapprove those that fail to accord with state policy, " and " no showing that state health departments, boards of medicine, or even state judicial systems can review private decisions to correct abuses. The agenda of the parties in the instant case must involve anti competitive acts as Toselli favorably recommending Appellant to St Joseph hospital, to Massachusetts board but unfavorably to RI Hospital. (Violates Sherman Antitrust).Further evidence is Dr Cronan's statement that those FMG's (foreign medical grads from schools like Ross Medical) " we do not deal with here," all the while hiring to the very same OPEN pediatric staff one Dr Vincent Armenio graduate of Ross Medical.

When there is room for doubt courts historically have disfavored 12 B motions. In the case of Mills it differed. Why? Mills did claim below that her constitutional rights and her due process were denied her. The courts must base decisions on reasonable and logical conclusions and inferences.

Looking again at the case of the injured 2 year old wherein Mills was not notified, an entire investigating committee met at the request of McIntyre on October 23, 1996. (Meeting for her alleged "failure to report" to DCYF. Having no knowledge of the incident and with no other doctor caring for her, reporting it, Mills was questioned why she did not. Mills had only seen the girl for an ear infection and RIH had not sent her the child's old records. had no knowledge of this child's injury. This child may have never even returned to Mills for medical care.

One need only look at the report that Mills did make to

DCYF regarding child abuse investigator's family with 29 known injuries to two of his four girls. This information Mills did have, and became aware of on September 25, 1999. (Mills had the old illegible records for about 9 months- not for many years as McIntyre stated) McIntyre stated at Appellant's hearing that since no other doctors ever reported these injuries to DCYF over many years, then Mills should not have done so. (These injuries were evaluated in the very same Kent Hospital ER as the 2 year old) No doctors ever reported the 2 year old's injury. Mills was never informed about this injury. McIntyre has subjected Mills to an inconsistent way of approaching these events which does not follow any reasonable pattern and by which noone could practice medicine. His actions are based only on a malicious intent to harm as seen in his affidavit(ExhibitA) where he states Mills reported an 18 year old. Mills reported a 16 year old which even DCYF was able to discern (CPS Protocol report. McIntyre, Turilli, and the RI Supreme Court @ pg 3 in footnote of the CHILD INC case all state Mills only reported a 18 or 19 year old to the child abuse hot line. This is done to make others believe that Mills committed unprofessional conduct by making the report. According to DCYF the ALLEGED VICTIM and REFERENCE PERSON was Erin Brown then just turned 16 years of age. Her mother and sibling sister both suffered injuries so were mentioned in the report as well. In that McIntyre's actions breach both RIGL and APA this case was labeled by court and Mills' former counsel as hybrid cases of APA/civil rights, APA with misrepresentations, and civil rights Russell v Clark's Ex'rs Supreme Court of the United States 11 US. The label is not the only question of consideration. It was in breach of Appellant's due process that all litany of events occurred. Mills has a constitutional right to report suspicion of child abuse. (RI Statute 40-11-6) Mills has constitutional and federal rights to abide by both RIGLs and HPAA laws to not release confidential health care information on patients unless by written signed consent by patient or authorized representative(RIGL 5-37-3-4) These fundamental constitutional rights she was not afforded (Rule 3(c)(10)).

Mills has a constitutional right to not be maligned because it is not just marring of a reputation but is interference with one's property interest and means of livelihood, which is a constitutional right.

The instant case was brought in order to claim her constitutional rights and due process, but in its filing, Mills learned she could motion the court by writ of mandamus based on breach of her rights. In that respect alone, Mills is of the belief that this instant complaint prompted the Medical Board to take action on the issue of reopening for evidence which had remained unanswered since January 30, 2001.

In prebriefing statement @ pg 1 Defendants cite " and on the eve of a decision Mills set forth a litany of matters relating to administrative procedures with which she took issue, filed suit in superior court. This case was filed March 1, 2001. A decision by the Hearing panel did not take place until July 10, 2001 certainly not the eve of their decision. It was the filing of the complaint against Toselli and/or a meeting with DCYF to stress the need for an investigation into those injuries to the child abuse investigator's two daughters that prompted the board to finally make its decision if one needs to consider at all what prompted the decision and when (one day after the requested meeting with DCYF just as it was just days after Mills contacted the hot line that she received her temporary suspension; two weeks after filing suit against Toselli Mills received the signed papers to an indefinite suspension). However, as stated, everyone was notified by the Board/McIntyre of the indefinite suspension long before a hearing took place. This violates the laws of Confidentiality both of APA and RIGL.

The same pre briefing statement states "Mills did not point to a single violation of state statute, rule, or regulation." (Appendix- Appellant's supplemental statement of violations in particular by McIntyre)

A claim for which relief can be granted was stated, deprivation of procedural due process was stated, and violations of RIGL and Federal laws were stated. The lower court has abused its discretion in dismissing the instant action. It is well-

established RI practice that a pleading should not be dismissed for failure to state a claim unless the pleader can prove no set of facts in support of the claims to entitle her to the relief sought Bragg v Shoppers World (1967). When there is room for doubt, courts historically have disfavored 12 b 6 motions. But here Mills did claim below that her constitutional rights and her due process were denied her.

In fact, Defendants motioned to strike this supplemental statement which was filed with counsel for Mills' full knowledge and agreement. The motion to strike was based on myriads of reasons as not having a caption, not having as party's address and phone number. This statement contained most of the violations committed by McIntyre representing the Medical Board. With such mention to detail to motion to strike one wonders how the Defendants through counsel Turilli could place a motion to object dated May 3rd 2001 to Mills' writ of mandamus submitted to the court (conforming to the procedural requirements) May 4th 2001 a day later. Certainly the Defendants are not cognizant of things to happen before they actually do- of course not. Mills submitted the motion April 20th but without filing an omnibus form. Legally there was no motion entered until that form was filed. The Defendants with such attention to detail regarding the supplemental statement were too in a rush to object to a writ of mandamus submitted by Appellant to reopen for evidence- that very evidence of Attorney General Whitehouse confirming Mills' own find that there were gasoline and MTBE vapors in her office building as reported by the State of RI DEM as " a hazardous threat to human health."(Exhibit B)

A series of similar situations again involved McIntyre wherein he entered evidence after the closing of motions for discovery. He did so in the CHILD INC case September 27,2001 and in the case of Mills v Nolan and Department of Health again on July 23, 2003. In CHILD INC, he submitted his own affidavit stating that the Director of the day care, Karen Stanley, had no influence on the suspension of Mills' license though Stanley told Attorney Stephen Mills and Appellant that McIntyre told her " something is in the works for Mills to lose her license." He

furthered that she was told if she had a complaint she could write to the Medical Board but she never did. She did admit to making a verbal complaint to McIntyre that she was unable to obtain medical records on patients from Dr Mills. In deposition she testified that she did not know of any medical records she was unable to obtain. These conversations took place within the very same days that McIntyre forwarded Mills a letter stating " due to the difficulties you are having in the transfer of medical records of patients wishing to transfer their care we require that you be fully evaluated."(Violation of RIGL that complaint must be in writing and original) The complaint was that of Stanley and McIntyre admits, was not a written complaint, only an alleged call, to which Stanley later admits consisted of false allegations.

The Rules of Confidentiality RIGL 5-37 were violated as was RIGL as to discovery time limitations (certainly prejudicial to Appellant in that her motions to reopen were denied but McIntyre is allowed to submit supporting evidence even after time barred by law). This is not just violation of the APA but of constitutional rights to equal protection and due process, to privacy and confidentiality per state and federal law. McIntyre discussed issues that related to his knowledge of having "something in the works" to take Mills' medical license.

On July 23, 2003 McIntyre submitted an affidavit from Counsel Seth Bowerman (Mills' first counsel was dismissed for failure to obtain a list of names of evaluators as well as for a comment made on 9/22/99 [while awaiting end of Dr Zaki's hearing] about the order for Mills to stop seeing patients having been made on the holy day of Rosh Hashannah)(Exhibit C)

It is denial of equal protection of law and due process for Mills to be denied all supporting evidence at the hearing as well as when motioned for reopening, but to allow Defendants to submit evidence after the close of discovery.

This affidavit was submitted to court by McIntyre and stated that they had been in some kind of "negotiation" for not giving Mills a list of names of psychiatrists. It is not rational nor logical that one would refuse to tender this list and then falsely allege not to have done so, because Mills was refusing to get an

evaluation at all. Was it due to " negotiation,"or "Mills refusing to get one at all," or was there another agenda- keeping Mills out of work for as long as possible. Dr Cullen did state " the politics of the situation will keep you out of work a long time." She was answering to Appellant's request to get evaluated as soon as possible to get the ordeal over with.

To review McIntyre's "reasons" for not giving the list and then writing a consent agreement stating that Mills " refused to get evaluated," is as follows:

1) he states Mills " refused at all times to get evaluated" if this were true what was the issue of "negotiation" to which he so needed to place new evidence after the close of discovery? If someone refuses at all times there is no negotiation .

2) Why did McIntyre give Mills one name of Dr Jeffrey Hunt on June 30, 1999- during the time he states he did not give her the list of names? (Mills contacted Dr Hunt and he explained that he was a child psychiatrist)

McIntyre stipulated to the date of 9/21/99 as to when he gave Mills the list of names. This was the correct date and Dr Cullen wrote to McIntyre, " on 9/21/99 you requested that I be added to a list of potential psychiatrists to evaluate Dr Mills. Mills contacted Bowerman the morning of 9/21/99 for the list of names or she would have to dismiss him as counsel. The list was faxed to Attorney Mills within hours of Appellant's conversation with Bowerman.

3) Why and how can McIntyre submit this affidavit after the close of discovery yet deny Mills every opportunity during the hearing, after the hearing before the close of proceedings as did the AHO to present supporting evidence necessary to determine the facts in the case of her medical license?

In Lemoine vs Dept of Mental Health Retardation and Hospitals 1974 @ pg 22 " the statute did not limit authority of superior court to remand administrative appeals to administrative agency so that more evidence could be taken and agency could reevaluate its decision." It is neither rational nor logical for lower court to deny letters rogatory on such an issue of child abuse. McIntyre in memorandum in support of objection of the

investigating committee states, " it appears all evidence was available at trial," citing Am Juris 2d Trial 382 (1991) " trial court should not reopen except for good reasons." Bridgeport NEAR SIDS records were not available at trial. If he wants to claim as per his affidavit @ 8, " the child about whom Mills called DCYF was approximately 18 years of age at the time" then certainly he cannot deny reopening for evidence on her. It is concealment when they state the report was only about a girl that had reached an adult age for Mills reported a 16 year old- the alleged victim and reference individual. Dr Robert Eden(Eden)only expert witness for the Board testified (T pg 80 10/19/00), " yes there is a standard of care, that report has to be made," and admits that " abuse often does tend to go through families." In deposition June 1, 2000 he testified that based on an " inability to read the record, yes" in reference to being asked , " you cannot determine the dates of the injuries to be true or inaccurate based on your inability to read the record?" T pg 79 reads, " I've located one fracture of a right radius, I can only find one 10/24/91, I cannot decipher the physician..." " It's hard to decipher the handwriting," and its " not decipherable, nor readable in many cases." (Dep @ pg 86) Yet in T @ pg 48 he testified, " I could render an opinion by excluding what I was not able to read, yes." 17 injuries he could exclude not being able to read the doctors' handwriting. Handwriting analyst Eileen Hurley rendered her opinion that the old medical records of Drs Barrett and those from the Newport Naval base, hand delivered to Mills by Brown were tampered with, cut and pasted over. It is Mills' belief as well that the handwriting on several of the naval forms was that of the child abuse investigator (father). Handwriting analyst Hurley asked that she be afforded more examples of the fathers' writing, to have him write the words " chicken pox" with both right and left hand. Mills asked this be done at the hearing and was denied.

McIntyre/Board/AHO denied Mills the constitutional right to be allowed evidence to as Dr Randell Alexander termed it, " either rule in or explain it away," regarding a suspicion of abuse; and denied her the right to confront her accusers

before the Defendants suspended her for " retaliation."

There are many examples cited in the complaint which allege "deprivation of a constitutionally secured right" just as "misrepresentation" was claimed (cited below). McIntyre/Board and AHO denied Mills her due process and constitutional rights to a fair and just hearing, to a fair and just temporary suspension; as well as to the ability to practice her profession without interference from McIntyre which was clearly harassment and retaliation (prior to and after the hearing).Due process cannot tolerate this type of licensing system in R.I. wherein the privilege of doing business is done so on an official whim.

The complaint delineates each of the rules, regulations, laws which were breached by the Defendants and are as follows:

1) Count 1 @ 6 - breach of own rules and regulations of due process (RIGL's) 5-37-3-4, 5-37-5.1,5.2,6.1,6.2 Regarding laws of confidentiality and transfer of records

2) Count 2- Dr Milton Hamolsky in RI Medical Board spring bulletin authors article on rules and regulations re: complaints 5-37-2.1 (5 days to physician, 14 days to respond)

3) Count 3 RIGL 5-37-1.3(10) " if probable cause exists to have physician evaluated from a list of doctors preapproved by the medical board..." no list forthcoming for 11 months violates "meaningful time and manner"

4) Count 4- breach of RIGL 5-37-6.1,6.2 and RIGL 40-11-6 regarding laws and statutes of reporting suspected abuse and rights to privacy and confidentiality

5) Count 4 @ 19 regarding constitutional rights to see own mental health records 5-37-6.1 and 6.2 McIntyre wrote to Dr Cullen October 1, 1999 that Mills would not be able to obtain report from psychiatrist but only what board would write to her

6)Count 4 @ 19 "told of McIntyre's misrepresentations"

7) Count 5 # 22 - breach of contract (verbal) - denial of privileges at RI Hospital in a 4-2 vote not appealed by Mills by RI Hospital by laws is to be reported to the NPDB (it was never reported by RI Hospital as per agreement of all parties as was reason for Mills meeting personally with Acting Chief Officer of R.I. Medical Board on July 26, 1994) it is violation of the

HCQIA act when it is not reported by a hospital under usual circumstances

8) Count 5 @22 "constitutional rights not afforded and content was misrepresented"

8) Count 6 # 29- DCYF reporting- constitutional rights

9) Count 7 # 32 violates RIGL Civil and constitutional rights denied her by actions of McIntyre and his repeated violations of Administrative procedures act and RIGL

This is not a hybrid but is a complete travesty, a complete deprivation of ones' rights to due process, property interest and constitutional rights. Without any evidence to support that Appellant has a " mental disorder," the Defendants have falsely condemned Appellant to live under a cloud of humiliation, embarrassment, marring her reputation to such a degree that she has been unable to find employment. Without the Defendants, their chosen expert witness, or their chosen two complainant families reviewing the facts prior, they have falsely condemned Appellant. After seeing what the Defendants, in particular Bruce W. McIntyre, have done with their own witness testimony being altered, complainants letters altered, the outright denial of Mills being allowed any supporting evidence and when allowed witnesses at RI Hospital their testimony was discarded from the record; with McIntyre writing to the evaluator Mills is not to be allowed access to her own mental health records once produced it is without any wonder that Mills cannot trust the integrity of this RI Medical Licensing system. Mills has agreed fully to be evaluated both medically and mentally- has done so repeatedly without any hesitation and once even with McIntyre's full agreement and pre approval to do so. Mills has also requested that she be evaluated by another board approved evaluator in the presence of any one of those physicians already having seen her but this was denied. One need only question why such an objective form of mediation to put an end to this status quo of events would not be acceptable to this board. The answer lies in the Defendants agenda to give Appellant a " mental disorder" (as attempted by Counsel Foster/ Psychiatrists Harrop and Stewart to as they claimed "win at the board") so that she may

never practice again. Certainly if Eden, a pediatrician, when deposed could even utter that it was his belief that Mills has a "paranoid schizophrenia," in testimony," potentially impaired judgment," one can only wonder what a trained Psychiatric professional hired by the RI Board might label Appellant. Wharton vs Meyers (1939) " ...physicians ...upon mental capacity no greater weight than laymen..." (Appendix B 24)

STATEMENT OF THE CASE

Appellant Geraldine Mills, M.D. a Pediatrician was so engaged from 1989 until September 22, 1999 when at an investigatory meeting (no stenographic report of meeting made)Bruce W. McIntyre (McIntyre) representing the medical board of the State of Rhode Island, told Mills to cease seeing patients as of that day. Mills never had any malpractice action taken against her; never had any adverse incident as harm or injury to any patient and there were no complaints to the medical board by any hospital (inclusive of RI Hospital where she did not obtain staff privileges [Appendix A], nor by any member of her call group of more than ten pediatricians. Mills not only had 700 patient families in her private practice but medically cared for over 15,000 families while doing call for these doctors.Mills was favorably credentialed each year at St Joseph Hospital from 1989 until the year 2000. When McIntyre told Mills to cease seeing patients she was still on full active staff at St Joseph Hospital without any complaints from the staff, and without any misconduct whatsoever noted by the hospital.

McIntyre immediately notified the National Practitioner Data Bank (NPDB) prior to October 25, 1999 that Mills was "indefinitely suspended," and his reason was she suffers from some "mental disorder," which causes her to have "unprofessional conduct." He describes the unprofessional conduct as " unusual behavior in the transfer of medical records," and giving patients "bizarre" diagnoses. He notified the NPDB again on October 7, 2002 that Mills has some " mental disorder." This time it was after he read the psychiatric evaluations that had been completed regarding Mills. It was also

after McIntyre had made an agreement with Mills' counsel John Harwood (then Speaker of House State of Rhode Island) and Robert Craven that Mills see a " pre-approved" psychiatrist in Massachusetts. Mills was fully evaluated by Dr Jerome Rogoff (Past President of the Massachusetts Psychiatric Society) and found competent to practice medicine and to have no psychiatric condition whatsoever that would prevent her from practicing her profession with the skill and safety necessary.

When Mills' counsel wrote to McIntyre for an explanation as to what he based his report to the Data Bank on, McIntyre never responded back. In fact, McIntyre told succeeding counsel for Mills that he believed Dr Rogoff was "not competent" to evaluate Mills. Mills' counsel received a letter from Dr James Ellison regarding the qualifications of Dr Rogoff and this stated that he was highly regarded as an expert in his field of Psychiatry.

The issues for which this case was brought include the myriad of violations of APA and RIGL by one individual in particular, Bruce W. McIntyre, in his representation of the RI Medical board. There is question as to which "titles" he holds at this board but it is without question that in reality he " is the board." He investigates by actually going to doctors' offices searching for complaints, helps mothers alter their original complaints, but denies being a member of the investigating committee. He describes himself as the lawyer for the investigating committee. He is counsel for the Director of the Department of Health and for two years he concurrently held the office of Chief Administrative Officer (the state could not find anyone to replace the physician who had retired). His duties at any one time ranged from investigating complaints to prosecuting them and to making all decisions of a Chief Officer.

He was questioned by Justice Silverstein if he was the lawyer "on the board," as well as the "lawyer for the board." At that time he was represented (in the instant case) by Attorney General Sheldon Whitehouse. On March 16, 2001 when he was asked this question he did not respond. The question was posed again and with Assistant Attorney General Anne Turilli present,

they answered , " yes," to being both counsel " for" and "on" the board. Without completion of a hearing, while only temporarily suspended, the RI Medical Board and Bruce W. McIntyre had notified many that Mills has a "mental disorder." It was already reported to many including the NPDB that Mills was "indefinitely suspended." After agreements with McIntyre and Mills being evaluated (at a cost of $8000.00 out of pocket) and found competent and to have no psychopathology, McIntyre/board persisted in reporting to many that she still has some "mental disorder." On November 16, 1993 Dr Alfred Toselli, former Chief of Pediatrics at St Joseph Hospital was alleged to have told Dr John J. Cronan, a Radiologist at RI Hospital that Mills was " psychotic." Toselli admitted in deposition on May 18, 2000 that he "personally kept Mills off staff at RI Hospital." This is fact because Mills received positive recommendations from many that she worked with at St Joseph Hospital. This included the Vice President Mark Hough's statement, "she gave quality care to her patients."

Former Attorney General Jeffrey Pine told Mills that McIntyre is "abusing his powers down there." Is he doing this to support a friend? Mills has been told by Psychiatrist Stewart that it is a "country club and if they do not want you they don't have to have you." Dr Seely, another Psychiatrist described it as the "old boy's club."

This case was brought to correct the deprivation of ones' due process and equal protection of the law- to give back Mills' constitutional rights to practice medicine as any other physician is allowed by abiding by the RIGL.

The course of events is printed in the Appendix A.

March 1, 2001 filed in RI Superior Court

March 16, 2001 Justice Silverstein presided over hearing for motion to obtain injunction and to allow reopening for all supporting evidence and witnesses (motion of January 30, 2001 that the board had not answered) motions were deferred to May and again deferred to June 17, 2001

May 3, 2001 Defendant objects to motion of writ of mandamus

May 4, 2001 Mills' motion for write of mandamus is docketed

June 19, 2001 case heard in Superior Court and motion for summary judgment in favor of Defendant

Appeal filed with RI Supreme Court July 18,2001

June 4, 2004 Court allowed evidence (not allowed in Mills vs Nolan)

Appeal heard in RI Supreme Court November 3, 2004 (Three years and 5 months later) and denied November 17,2004

ARGUMENT-REASONS FOR THE GRANTING OF WRIT

The instant case is about denial of an individual's property interest, their livelihood but done so on official whim of one individual for his " cronies." Geraldine Mills, M.D. has been deprived of her sole means of income for five years to date and has been the subject of irreparable harm. She has been slandered by Counsel for the Medical Board Bruce W McIntyre as having some " mental disorder," and placed in impossible situation of either submitting to his further abusive misuse of his powers or remaining out of work. It is her belief that even with his evaluation of her, she would not be allowed to work, so the situation remains in this status quo in its fifth year. The only difference being, now Mills has seen six mental health professionals and taken standard testing (MMPI) all which conclude there is no reason whatsoever for her to remain denied from practice of medicine. McIntyre was witness outside the proper scope of his duties as legal counsel. He not only investigated the two complaints but aided the mothers in preparing them. With Joseph Miller, he physically went to the offices of doctors in Mills' call group to find "anything" they could to place Mills out of work. When this did not turn out in their favor they were left with the two witness families- one with an infant failing to thrive and a mother having difficulties with a day care director; the other a State of RI child abuse investigator and his spouse with 29 injuries to two of their four girls. From a medical practice built from one patient family to

over 700 families and taking call for thousands others, this shows the isolated nature of complaints against Mills. McIntyre did not just receive a complaint but he aided the mothers in making their complaints by altering one and convincing the other to write one at all, with electronic tampering.(Appendix B 25) McIntyre has been deemed by RI Supreme Court as having committed no acts of misconduct with regards to this case (Appendix B- misconduct/violations of RIGL). US v Rodoliz

The Constitution of the United States mandates that due process be afforded before a "property interest" be deprived. This very information is so stated in the Administrative Procedure Act and Rules and Regulations on agencies in the State of Rhode Island. " A long history of case law has held that professional licensees have a " property interest" in the professional license. An Administrative Hearing notice is issued together with a specification of charges and a witness list and is served upon the physician. The hearing will be conducted in accordance with the APA and per RIGL. [In the instant case it was not done in accordance with any of the above but on the whim of one particular official Bruce W. McIntyre]. The APA governs the manner in which hearings before governmental agencies and boards are conducted."

Under 28 U.S.C. 1257 (a) Appellant's right to due process of law is called into question. This reads in part, "...no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny any person within its jurisdiction the equal protection of the laws." Mills ceased seeing patients on September 22, 1999 as per McIntyre Counsel for the RI Medical Board. Yet on October 19, 1999 Director of Health Dr Patricia Nolan signed an immediate suspension of Mills' license even though Mills posed no threat to any patient. R.I.G.L. 5-37-8 gives full authority to the Director to summarily suspend a license only if " continuation in the practice would constitute an immediate danger to the public." There was no danger because Mills had fully agreed to stop practice until the

matter was resolved. The laws further that " all decisions must be rational and logical and derived in a meaningful time and manner." The hearing did not begin until August 2000. None of the laws were abided by in the instant case.

28 U.S.C. 1257(a) does allow the jurisdiction of this Court to review decisions of the state courts where the validity of a statute of any state is drawn into question. The laws of Rhode Island restrict the tenure of those on the Medical Board but McIntyre in particular continues to maintain his multiple positions despite its being in violation of the law. Current Governor Carcieri responded to these concerns by stating that Appellant could bring suit against McIntyre in an attempt to correct any violations that she may believe exist (Appendix)The Board is to be composed of as per RIGL 5-37-1.1(6) six licensed physicians, (5) public members one of whom shall be an attorney with experience as plaintiff's counsel in the presentation or prosecution of medical malpractice, the other a member of the general public not associated with the medical field who shall have attained the age of at least (60) years... This means that a member of the Board one of which is counsel who participates in the investigation may not per RI statute participate in any subsequent hearing so as to not exercise undue influence over the hearing panel. This was exactly what McIntyre did. He was also privy to a series of events and conversations with Appellant to which noone else was aware. (Appendix B23)McIntyre did not just investigate the instant case but he found the adversarial witnesses, as stated, aided them in producing their complaints which violates state and federal laws. (Altering one, convincing the other he was as she called it, "out to help her"). This violates statute 5-37-5.2 (a) which reads, " any person firm corporation may...submit a written complaint..., and rules and regulations at 14 110 001-13 which reads Rule 4b Notice to Physician, " upon filing a complaint the Board shall serve upon Physician involved a copy thereof." This again did not happen as per RI statute in the instant case. The complaint must be investigated by board (in this case fully/or in part by McIntyre to determine whether it merits consideration or if it is frivolous or unfounded.

It is with violation of Appellant's due process that McIntyre aided in the production of an altered complaint (from original handwritten one of Deborah Cinquegrana), then determined it was with merit(her own testimony supports it was witihout merit),then prosecuted the issues before board, presenting his own theories first, rather than allow them to objectively hear testimony. US v. DeZann(1998 "perjury") McIntyre and Hobson AHO (Hearing Officer) did not allow any supporting evidence necessary to determine credibility of facts on the record. The following facts are stated before presentation of the individual acts in violation of Mills' rights to abide by RIGL, Federal HIPAA laws and the violations by McIntyre/medical board of their own Administrative Procedures Act governing state agencies (detailed in Appendix B)

Defendants repeatedly present the issue that in order for a case to be heard in the court of this nature, one must " exhaust all administrative remedies first." They stated on the first page of their memorandum of law in support of their objection to plaintiff's motion for preliminary injunction and in their support of motion to dismiss, " Plaintiff has failed to exhaust her administrative remedies and even herself moved, on January 30, 2001 to reopen the proceedings to submit further evidence (now scheduled to be heard on March 28, 2001). Accordingly her motion for preliminary injunction should be denied and her complaint dismissed to allow the administrative proceedings below to conclude." Obviously this was written and dated prior to March 28, 2001. Mills was asked to return from out of state to attend that meeting. When she arrived home that day she was told that they held the meeting before the time she was told to arrive. Counsel D'Ambrosio (representing Mills in an environmental case but not in her license case) met with the board and was told that Mills would have until sometime in April to prepare her witnesses and supporting evidence for the board. Though Mills had already painstakingly prepared this information as well as contacted all witnesses (in 2000 and again in 2001) she was never allowed to present this.

Case law reads that one need not " exhaust administrative

remedies wherein to do so would be futile."Defendants repeatedly use the term " end run" when they describe Mills' actions to protect her constitutional rights. They allege Mills filed her case against the medical board and McIntyre to do an " end run" around the administrative proceedings. It is in fact the medical board/McIntyre that have consistently and repeatedly acted in retaliation to every action that Mills has taken to protect her constitutional rights, to abide by the laws of the State of R.I., Federal laws, and to protect children when she suspected abuse was occurring.

After March 28th no action is taken until Mills again makes motion to the court April 20th for not having heard from the board. On May 3rd 2001 Attorney General(Turilli) signs an objection stating the board denied the motion to reopen on May 1st though Appellant and counsel were never notified of such. They simply attached the board's decision dated May 1st to their motion of May 3rd and stated it should be denied because the " motion is now moot." The May 1st decision of the board was dated as certified on May 2nd. Even if it had been sent by the board to Mills or counsel they certainly would not have received it prior to the May 3rd objection signed by Turilli. More significantly, Turilli signed this May 3rd objection before Appellant's motion was even docketed. Mills (obviously not learned in law) failed to file an omnibus form not doing so until May 4th. The court in error of law allowed Defendant's objection to motion that did not even exist at the time. This clearly represented fact that no matter what Appellant did or did not do would have resulted in same outcome- McIntyre said it right from the beginning- " I never lose in court," and something is in the works for Mills to lose her license." Mills did not do any " end runs."She has maintained legal representation until she learned they were not acting in her best interest, then represented herself until able to find new counsel, and finally out of a state of financial destitution again has to represent herself. She has contested this case due to actions of McIntyre and board which with malice are not protected by immunity(RIGL 5-37-1.5) and with no statutory immunity (RIGL 9-31-1) are an

unconstitutional abuse of powers to support " cronyism" in the medical community in Rhode Island. As one psychiatrist informed Mills, " it is a country club and if they do not want you in it they don't have to have you." (Stated by the psychiatrist that McIntyre/board may be referring to when they falsely allege Mills "did not get along with" one, as they wrote in the Administrative Decision) This alone violates Mills' due process because at all times they refused any supporting evidence from Mills which included the results of her MMPI testing in 2000 and her psychiatric evaluations done in 1999. The statements are false allegations because if Ronald Stewart, M.D. is in fact who they refer to, at all times Appellant "got along with him." He told Mills the only way to "win at the board with McIntyre is to accept a mental illness because McIntyre would not accept Mills' being normal." Mills though not in agreement with such an unethical use of medicine, contacted another psychiatrist to discuss what Dr Stewart and his partner Dr Daniel Harrop were doing. Dr Jenike advised her to "get rid of her lawyer and Dr Stewart," and find herself proper representation and to get another general psychiatrist to evaluate her. Mills did this. At no time did Mills " not accept a diagnosis," nor did Mills, " not get along with," a psychiatrist. Again this was McIntyre's complete fabrication and illusion regarding the facts.

Defendant McIntyre objected on February 1, 2001 to Appellant's motion of January 30, 2001 to reopen for all supporting evidence - just the day after. The medical board had no intentions whatsoever of allowing Mills this information. It was simply a way for the board/McIntyre to go through the motions to make an appearance as though they were following the rules and laws- all the while violating almost every rule and law creating delays to as one of their pre approved psychiatrists told Mills " the politics of the situation will keep you out of work a long time." She knew exactly what was taking place before Mills did. Mills was naive in her belief that she was going to be represented fairly and justly both by her own counsel and by the RI state court judicial system. She has learned a very sad lesson - one that former Supreme Court Justice Flanders fully

recognizes as well about the RI state judicial system. It did not require three months, including a meeting on March 28th 2001 in which they make representations that they will accept evidence sometime in April, for the medical board to deny Mills supporting evidence. They used the meeting date set for March 28th as reason to motion the court that Mills' request for injunction should be denied and the instant case to be dismissed. When the March 28th dated was long passed and they had not acted on the motions as late as May of 2001, they only after learning Mills had attempted to place another motion April 20th signed a denial to reopen on May 1st so as to use the reason " it is now moot" to deny this motion. This can only be characterized as " end run" activity and clearly a " game" to delay the inevitable as long as possible to place the Appellant in financial ruin. This they have succeeded in doing. All that is left is that this court can overturn the unconstitutional acts of McIntyre/ RI state medical board in at minimum remanding this case back to the medical board or lower court with Appellant having the right to due process to witnesses and all supporting evidence necessary to determine the true facts of this case. (Appendix C- "Delays") 1) In violation of RI statute section 5-37- 3-4 McIntyre forced with threat of suspension Appellant to release confidential health care information on her patients. The issue is why did McIntyre not require a signature from the parents rather than label it in Mills' summary suspension as an " unusual practice in the release of medical records." There is nothing unusual about following the HPAA Federal laws and RIGLs regarding release of confidential health care information. This court has the authority to address this issue for it is reason for Mills being denied her property interest and due process per the Fourteenth Amendment (Appendix B-1) 2) In violation of Mills' right to equal protection of the law and due process, McIntyre made public to the NPDB (October 26,1999), Florida Health Department (May 4, 2000),again to NPDB (October 7, 2002) that according to his allegations Mills has a " mental disorder." McIntyre further violated Mills' rights when he adamantly refused at all times to afford Mills a " list of names"

of psychiatrists and medical doctors pre-approved by the board, then alleged that during this time (Mills not having their names) Mills refused to see them. RIGL statute 5-37 @ pg 86 (10) reads that if it is required that a physician be evaluated it must be " by a physician acceptable to the board from a list provided to the licensee by the board if probable cause exists..." (Appendix B-2) 3) One year after sending Mills the letter stating she needed to be "evaluated," Mills only after informing her counsel he would be dismissed if he did not obtain this list, Mills received a list of four Psychiatrists. Mills chose Dr Leah Oseas Cullen. After doing so and prior to seeing her, McIntyre wrote to her that she was not to inform Mills of the results of her evaluation (that Mills would only receive a letter from the board/McIntyre). This violates Mills' constitutional right to see her own medical records and is in violation of Federal HPAA. McIntyre also wrote a myriad of false allegations to this doctor regarding Mills (Appendix B-2) 4) The duty of the AHO (Administrative Hearing Officer) is to have on record all necessary evidence to determine the veracity of the facts. In violation of Mills' due process the so called "expert witness" for the board clearly did not have expertise in any of the issues to which he gave his opinion to " all reasonable medical certainty." As per APA and RIGL, regarding evidence in these hearings before state agencies, the rules of civil procedure are followed as in the judicial court system. Appellant cites Millerick v. Fascio 120 R.I. 9, 384 A.2d 601 (1978) wherein medical consultant for agency reached opposite conclusion as to plaintiff's doctor rather than obtaining an independent physical examination. The court further concluded that the decision which relied solely on the consultant's opposite conclusion was clearly erroneous. Without any independent review of any of the issues to which he knew by June 1, 2000 (date of his deposition in medical board matter of Mills) that he would be agin asked in testimony, Eden relied solely on the mother's testimony (Appendix B3,B24(5)Appellant was denied due process and equal protection of law when her statements as testified to regarding what DEM told her, what her employees and patients informed her were not allowed as

hearsay; yet the Brown witnesses were able to testify as to what their 15 year old daughter told them (not present at hearing) regarding her * 69 of one phone call (in fact differing stories from each parent about what daughter told them)(Appendix B-4) 6) Appellant tried to submit evidence to support her testimony five times to no avail (during hearing, after hearing but while proceedings were still open and after hearing but prior to decision on appeal). Attorney General Sheldon Whitehouse's case against Speedy Oil et al PC No 00-229 was not allowed as supporting evidence for Appellant's testimony. Sheldon Whitehouse,represented by Turilli counsel for McIntyre/board objected to Mills being allowed this evidence. Why would an attorney general of a state in these United States not allow a citizzen the right to support her testimony with evidencee that would prove to the medical board she was not "delusional" regarding the contamination? Mills monitored her building, determined a 90.6 ppm level of gasoline vapors and reported it to DEM, a state agency thereby aiding the state in protecting the health of the citizens of Cranston R.I. Whitehouse has brought suit against paint companies for their use of lead dating back a hundred years. It seems to be a violation of due process his being so environmentally conscious of this but not in helping Mills.
It is "conflict of interest" to represent the board/McIntyre in not allowing Mills his own case to support her. It is also not "just character witnesses" as Turilli gave as reason for why Mills should not be allowed to re-open for all supporting evidence. Turilli furthered, " it would add no additional information to help the hearing panel make a meaningful decision." (Appendix B-5)All the above violates Mills' due process rights to a fair and just hearing and equal protection of the law.7) McIntyre deemed it retaliation and the hearing officer Hobson made the statement that it was "obvious" that it was "retaliation" when Mills contacted DCYF regarding the child abuse investigator's family and the now known 29 injuries to two of his girls. (See # 9 as well as Appendix B-6) Mills made this call after having contacted a Massachusetts law firm for advice on how to proceed and after contacting Child Custody Advocates office. Both

advised her she had to make the call to the hot line DCYF. On September 25, 1999, Mills was faced with doing what was required of her as a citizen of these United States and what was morally and ethically right to protect the health and welfare of children versus reporting to DCYF State of Rhode Island one of their own. In the hotline call Mills stated she "did not want anything to happen." The statute for reporting child abuse in R.I. does not address the situation that Mills found herself in(Appendix B-7) It is not written so unambiguous as even the board's own expert Eden stated, "that hasn't happened to me, I guess the state would have to examine the children." He was referring to the fact that Mills could not file a PRE(written statement) after her hot line call because she was no longer the treating physician. McIntyre/board allege Mills did not report her suspicion in the appropriate way. However, Eden did not come to this conclusion. He testified that there was only a "possibility" that Mills accessed DCYF inappropriately. He testified that he only saw ONE injury in the patient's chart but that much of the old medical records (not those of Mills) were illegible. He could not read the more than 17 other injuries present. When asked if he could make his decision based on not being able to read the full record he answered he was able to make his decision based on what he did see. How can one make such a decision if they are missing 17 other injuries? However, when asked if he saw 17 more injuries in the chart would he believe a report to DCYF was required, he answered, "yes." Mills was supported by international known child abuse expert, Dr Randell Alexander who contacted Mills on November 6, 2003 to inform Mills that the RI state courts would not be granting her appeal of her license if they did not allow her the subpoena of NEAR SIDS records. He reviewed the medical charts of the Browns and found the call to DCYF was " not unreasonable and not out of line." Dr Mark Feldman wrote Mills, after my review this appears as a case of "Munchaussen by proxy but severe child abuse as well." In violation of Mills' due process and equal protection of law, no investigation was done on the Browns when the Board/McIntyre alleged that the call to the hotline

about a suspicion of abuse was "unfounded." The board's own expert stated it was "possibly inappropriate," inferring not definitely, and testified had he seen all the injuries he would have to report it. Dr Jenny admitted even after the unsupported decision of McIntyre/board that to properly investigate she would need the NEAR SIDS records,

One can only conclude that it is only by "official whim" that McIntyre/Hobson/Medical Board allege it was "unfounded." 8) Hearing Officers are there to maintain the decorum of the hearing, to determine if the evidence is on the record to support the facts in the case. They are not there to make innuendos and reveal their prejudices as Hobson did on many occasions as noted in (Appendix B-8). 9) Mills was denied her due process and equal protection of law when board/McIntyre printed on numerous occasions that Mills' report to DCYF was regarding one girl only and that she had attained the age of 18. This is a blatant misrepresentation in order to create an unprofessional appearance to Mills' conduct. The CPC protocol report by DCYF states the alleged victim is Erin Brown then 15 years old(reference person)-certainly not one attaining the age consistent with adulthood. (Appendix B-9) (10) In memorandum in support of objection signed by McIntyre, he cites Am Jur 2d Trial 382(1991), " The trial court should not reopen a case except for good reasons and in proper showing." The Bridgeport records were not available at trial as McIntyre stated, " at the Disciplinary hearing pertaining to Mills all the evidence was available at trial." The only "evidence available," was that which he authorized from his own expert and from his two witness families. In fact, this included what Eden testified to, "assuming what I was given to be true." He was only given the two witness family complaints. Again this violates Mills' due process and equal protection of law. In Lemoine v. Department of Mental Health and Retardation & Hospitals, 1974 " the statute did not limit authority of superior court to remand administrative appeals to the agency so that more evidence could be taken and agency could reevaluate its decision." Board/McIntyre have improperly weighed evidence, made omissions to record as it

stands, changed wording as testified by both appellant and board's own witnesses, concealed information rendering decision arbitrary,capricious,erroneous.(Lake Terrace Property Owners Assn v New Orleans 567 So.2d 69 (La) at error of law(Appendix B-10) 11) RIGL and APA on complaints reads "unaltered"letter of complaint will be forwarded to physician. Hamolsky,M.D. former Chief Officer of RI Medical Board wrote in board's own spring bulletin 1994, the physician will be forwarded the complaint within five days for review and must respond in writing within fourteen days . Cinquegrana testified the " man in the red tie and blue shirt" aided her in writing her letter. This is fact. McIntyre helped the mother make a new complaint altering her original handwritten one. This is significant because the issue of the release of medical records was not addressed similarly in each (Appendix B-11). 12) McIntyre/board wrote in Mills' summary suspension she gave "bizarre"diagnoses to patients (October 1999) There is nothing bizarre about pseudohyparathyroidism, hereditary spherocytosis San Fillip B, primary pulmonary hypertension and Arnold Chiari. Though these are not the common "everyday" diagnosis of an ear infection, Pediatricians must be aware of them because they are neither "rare" nor "bizarre." The above diagnoses were critical to the health of these children. Appellant cannot practice medicine properly with a board/McIntyre alleging these are "bizarre" diagnoses" and making the illusion that Mills was unprofessional about her care of her patients. This violates Mills' due process and equal protection of law to practice her livelihood, to have her property interest taken based on the fabrications of the facts and truth by McIntyre(Appendix B-12) What is the real reason for the unfair characterization of Mills as giving "bizarre" diagnoses to her patients? There must be adequate relevant evidence so that a reasonable person could accept the evidence as sufficient to support the agency's conclusions. Pierce v Underwood 487 US 552, 101 L.Ed 2d 490, 108 S. Ct. 2541.

DECISIONS BELOW CONFLICTS WITH THIS COURTS PRECEDENTS

Agency action may be considered "arbitrary and capricious" when agency's explanation for its decision runs so counter to evidence before the agency that it could not be regarded as the product of agency expertise. Motor Vehicle Manuafacturers assoc. v State Farm Mutual Auto Ins 463 US 29, 77 L.Ed.2d 443, 103S Ct. 2856. The Supreme Court will reverse factual conclusions of agency only when "completely bereft of competent evidentiary support in record" as in this case. A mother testifying Mills is "bizarre/irrational" to believe gasoline vapors are in her building and Eden(RIH employed) testifying Mills has"potentially impaired judgment," due to "toxic building stuff"(no knowledge about Mills' building(s) nor of sick building syndrome("once saw it in news") violates Mills' due process and equal protection of law. Neither had experience in psychiatry or environmental issues. Wharton vs Meyers 1939, Sanzari vs Rosenfeld 1961, Brouillette vs Weymouth Shoe. This case was fabricated for "a friend," Alfred Toselli and/or John Cronan.Without foundation it is "favors for cronies." The hearing was simply "going through the motions" to make an appearance as though laws were followed. In fact, no "rules"were followed (RIGL or APA), again denial of due process and equal protection. Eden testified 1) he would "ultimately" release confidential health care information without patients' signatures-violating Federal HPAA 2) he did not know if VOC's existed in Mills' office/only had mother's complaint which stated it was bizarre for Mills to believe so 3) he had no idea what Williams syndrome was yet testified Mills was "wrong about the possibility"(he could not put together failure to thrive and microcephaly-both in Williams) 4) did not know what took place at Mills' office regarding signing of daycare/camp forms 5) had never been faced with a suspicion of child abuse wherein he could not file a PRE (written statement after making a hotline call).APA governing all state agencies follows closely civil court rules when it pertains to evidence. Eden's testimony would not stand under these rules of evidence (Appendix B3,B24) 13)Three dates set for hearing were set prior to McIntyre writing a witness list (December 10, 1999 revised 1/24/00violating RIGL/APA.

CONCLUSION

McIntyre's actions as individual, with board collectively, cannot be tolerated. He admits to being counsel for/on the board as well as investigating member in this case. He has abused powers given him 1) making unfounded statements to NPDB that Mills has"mentaldisorder"and is "in psychiatric care," 2)discriminating against based on race, creed,religion; witness list falsely alleging Mills called Russo antisemitic3) alters complaints, threatening suspension if she did not release records without signed consen4) publish notice of suspension prior to hearing 5)deny right to witnesses, evidence; submits own after discovery; no notice to adverse party at hearing6) refusing to submit witness list and specified charges 7)theorize, dictate outcomes. August 23, 2000, McIntyre stated, "Attorneys have a unique responsibility to see that justice be done and not try to dictate outcomes. I apologize for that." He has dictated this outcome to date. He claims to" never lose in court and court gives him great leeway." Mills was discriminated against at RI Hospital. Dr Hamolsky asked her, " have you thought it could be because you are Jewish?" Mills thought it was her being a foreign medical graduate as Dr Cronan stated, " we don't deal with that school here." Two mothers with McIntyre's help, witnessed against Mills. 10/14/98, one wrote, " I would never entrust the care of my children to anyone else"(29 injuries to two of her girls);4/30/98 the other offered Mills a discount at Cohoes (her infant failing to thrive). Counsels McIntyre and Miller bellowed in court, " Mills horrendously abused patients." Mills built her practice from one patient to 700 families not abusing anyone. Justice Flanders (resigns August 2004) described it perfectly, " too much bigotry, discrimination, and corruption in the RI State Judicial system." For all the reasons herein cited, a writ of certiorari should be granted.

Respectfully submitted by
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APPENDIX A

TRAVEL OF CASE

Appellant Geraldine Mills, M.D., Pediatrician and so engaged from 1989 until September 22, 1999 was told at an investigatory meeting (no stenographer or record of meeting taken) by Bruce W. McIntyre to cease seeing her patients as of that day. Mills not only had over 700 families in her solo practice but medically cared for over 15,000 other families while doing call for more than ten other Pediatricians throughout Rhode Island. Mills never had any malpractice action taken against her, never had any adverse incident as harm or injury to any patient and there were no complaints to the Medical Board about her by any hospital (inclusive of RI Hospital), not by any member of her call group. Mills was favorably credentialed each year by Chief of Pediatrics at St Joseph Hospital, then Alfred Toselli, M.D.(Toselli) On December 17, 1993 Mills was placed on full active staff in Pediatrics at St Joseph at the recommendation in part of Toselli. However, on March 31, 1994 Mills in hearing for privileges to RI Hospital (with ICU services not present at St Joseph for children), was told that Toselli had spoken to John J. Cronan M.D., Radiologist and credentials coordinator, and had told him, she is a "near bordering psychotic with a litigious brother a lawyer to fight her legal battles for her, I would never hire her again, she was incapable of doing the job." Toselli in deposition May 18, 2000 testified that he " personally kept Mills off staff at RI Hospital."However, he wrote to Massachusetts Medical Board on two separate occasions that Mills was " good" in all her qualifications. Toselli did hire Mills again on May 31, 1994 Memorial Day for a 24 hour call totally unsupervised. At this time Mills was no longer employed by the hospital but was starting her own private practice and was on full active staff at St Joseph only (due to false and slanderous statements of either Toselli and/or Cronan). Mills filed suit against Cronan for the discrimination, misconduct and illegal acts of Dr Cronan acting as credentials coordinator. Cronan

stated, " we don't deal with those foreign medical graduates (FMG's) here (meaning at RI Hospital)." [1991 Vincent Armenio a male graduate of Ross Medical School Dominica West Indies was admitted to the same staff in Pediatrics to which Mills applied; Mills graduated in 1984 from Ross Medical]. Cronan tampered with the file of Appellant and removed her witness testimony of Past President of the Providence Chapter Foster Parents' Association Darlene Barre that of Keri Voisinet and others. He altered those physicians' recommendations in support of Appellant as changing the words " straightforward approach to patient care" to " erratic approach with a mentally erratic personality," the words " large and active practice," to a " small unit," and the words " a leave of absence of 1 ½ week deleted from vacation time," to she was " suspended from the program."

At the close of the hearing Cronan gave Appellant a book titled, " The Disruptive Physician." During this time, not known to the Appellant until several years later, Cronan was being tried on domestic violence charges for which he was later convicted. He described his wife as such a " mentally erratic personality" as to not know she was being beaten by him. He continued in his practice at RI Hospital. Appellant filed a complaint against Cronan but dropped the complaint because with privileges at St Joseph she could still maintain a medical practice. Dr Richard Greco, a Pediatrician stands by his belief to this day, that he saw, "no reason for Mills to not have been placed on staff at RI Hospital in Pediatrics." He was a former partner in Toselli's practice. Toselli was asked to leave his own practice in 1991 because as one partner described him," he was becoming irrational and losing control." (Dr Laura Mason) The Pediatric Unit at St Joseph Hospital no longer exists in part because the Chief never admitted any of his own private patients there; always admitting his to RI Hospital.

After the above incidents, Mills began receiving threatening calls to her private office by Bruce W. McIntyre a personal friend and neighbor of Toselli (both live in the small town of Jamestown, Rhode Island- Justice Daniel Procaccini

superior court Justice making decision on Appellant's license appeal also lives in Jamestown between McIntyre and Toselli's residences). In fact without having his own personal counsel present at his deposition, Toselli was only accompanied by McIntyre and another lawyer for the Medical Board, Joseph R. Miller.

The harassment, slander and interference with her medical practice resulted from the acts of misconduct, malfeasance and misfeasance of several individuals including Toselli, Cronan, and McIntyre. The only way to remove Mills from practice and to permanently destroy the business Mills had built from one patient, was to create problems within those entities which supported the core of her business- her on call group and the day care to where most of her patients attended. Mills' call group was started by Dr Pietro Russo before she joined it. McIntyre made a witness list on December 10, 1999 a date well after the ten (10) days RIGL allows for a hearing if immediately suspended. (Witness list and specification of charges should be submitted to the physician at the same time as they receive the date for the hearing). He listed many of the call doctors and wrote they were all going to testify to the " threatening and aggressive" behavior of Mills. He wrote that Dr Russo was to testify to Mills' allegedly " threatening him antisemitic." Mills contacted Russo upon receipt of this document, December 20, 1999, and has retained a copy of this conversation (transcript of which is now present in the RI lower court). Dr Russo told Mills he " never talk to the Board and never said you said something like that." Yet on May 18, 2000 Toselli in the presence of McIntyre testified, that one month prior he had received a call from Russo stating that Mills had threatened Russo antisemitic. Toselli testified this was the only threatening remark he could remember Mills stating in the ten years he had known her. Toselli was not aware that Mills had the transcript of the call to Russo.

None of the call group doctors testified against Mills.

McIntyre told the Director of the Day Care CHILD INC Karen Stanley that, " something is in the works for Mills to lose

her license." He told her this just prior to October 1, 1998.

In October 1999, McIntyre asked Attorney John Tramonti and Attorney Stephen Mills to meet with him to " make a deal" regarding Mills. Tramonti knowing Mills was scheduled to have an evaluation with a Psychiatrist, (Mills not knowing at the time that McIntyre had fabricated false allegations to the evaluator and told her Mills could not see her own mental health records), told Mills to hold off on the evaluation because he was meeting with McIntyre who was interested in making a "deal." Mills rescheduled for October 20th but just moments prior to leaving for the appointment, she learned she had been suspended on the 19th. At the meeting counsels (Mills not represented at the time) were attempting to aid Mills. McIntyre told them that he had already reported an " indefinite suspension" of Mills' medical license to the NPDB even though she had not had a hearing-(no hearing until August 2000-December 2000).

This alone violated RIGL and all Adminstrative Procedure. McIntyre furthered, " I never lose in court, " and your sister will never practice again." Official whim, bias, bigotry, and discrimination are even reason for Justice Robert Flanders resigning from the highest RI State court in August 2004.

The following is a description of the proceedings and the rulings of the lower courts:

Mills receives letter from McIntyre on September 29, 1998 and is told to have an " evaluation" due to her difficulties with transfer of medical records (Mills had never received any complaints except a call from Deborah Cinquegrana on September 11, 1998 and parent was told to sign the releases and mail them back)

Mills receives calls to her office from frantic parents having been told to find a new Pediatrician (September 30, 1998 on her answering machine), Mills gets calls October 1, 1998

Stephen Mills contacts Karen Stanley at CHILD INC on October 1, 1998 and is told McIntyre told her Mills would lose her license

October 9, 1998 McIntyre calls Mills at her office and tells her he is " going to get her " and " you are aggressive and

cannot handle stress"

October 15, 1998 receives first complaint typed on board stationary and signed by Deborah Cinquegrana

Mills hires counsel Seth Bowerman through Norcal malpractice insurance October 15, 1998 and he gives Mills complaint letter - the only written complaint

Mills asks Bowerman for the list of names of " evaluators" and only gets one name on June 30, 1999 of Jeffrey Hunt, M.D. (a child psychiatrist)

Bowerman writes to McIntyre February 10, 1999 and asks that he make available any and all complaints made against Mills and none other than that of Cinquegrana are produced.

Mills contacts Bowerman and demands the list of evaluators or will dismiss him as counsel; the list is produced within a few hours of this call to Bowerman on September 21, 1999 at 9:30 AM (stipulation later filed that McIntyre did not give Mills this list for one year, Dr Cullen writes to McIntyre that she was asked to be on this list on September 21, 1999)

Mills told to cease seeing patients on September 22, 1999 by McIntyre as member of investigating committee

Mills contacts Dr Leah Cullen to set up appointment for evaluation (September 23, 1999 makes call but is told there are no appointments until October earliest the 5th) Cullen tells Mills that " this does not matter because the POLITICS of the situation are going to keep you out of work a long time."

Mills delivers Brown medical records to Board/McIntyre September 22, 1999

Mills reviews Brown medical charts- in particular old "illegible" medical records on September 25, 1999

Mills contacts hospitals to obtain ER records of more than 18 injuries (now known about 29 injuries to two girls of a state child abuse investigator)

Mills dismisses Bowerman after he makes a religious comment to Mills about her holy day Rosh Hashannah (while waiting for Dr Zaki to come out of his meeting with the medical board)

Mills writes to counsel in Massachusetts to take on her

case and asks in letter what to do about the information she has learned of in the old medical records regarding NEAR SIDS and the many many injuries (Rodney McCleish and Peter Carr)

Mills has evaluation per referral of Dr Scagnelli to a Dr Ronald Stewart Forensic Psychiatrist (Brown and Harvard) but when arrives is seen by a nurse and who she thought was a social worker (later learns is Dr Daniel Harrop another Psychiatrist because Dr Stewart was away for the holiday in Maine) October 11, 1999.

Mills reschedules evaluation by Board Psychiatrist from list for October 15, 1999 with Dr Cullen

Mills contacts child custody advocate office to determine what to do with this information and is told to also call the DCYF hot line October 5, 1999

Investigation meeting October 13, 1999 Mills not informed about votes to temporary suspend Mills

Mills is taking Pedaitric Boards again under the stress of McIntyre's harassment and threats to her

Temporary suspension before a hearing October 19, 1999

Moments before leaving for evaluation on October 20th Mills is informed by Dr Ronald Stewart that she has been suspended as of the 19th.

Mills hires Paul Foster November 9th 1999

Foster obtains Mills' entire file from Medical Board and gives Mills the file on November 10th 1999

Mills reviews the entire file from 10 pm until 2 AM on November 11, 1999 and finds a letter marked URGENT to McIntyre from Joyce Brown wife of State of R.I. child abuse investigator dated September 29, 1999 and sent by fax to McIntyre September 30, 1999

Mills learns of a Bridgeport Hospital and contacts Medical records at the hospital at about 4 AM November 11, 1999 and learns the NEAR SIDS records are not as the mother states " lost in the navy" but are still on microfiche at the hospital from 1980

Mills contacts Foster and asks for him to subpoena these records but he refuses to do so (later learn he was former

prosecuting attorney for DCYF)

Hearing to remove McIntyre as counsel as he is a witness in this case December 8, 1999 (motion denied)

December 10, 1999 McIntyre writes first witness list and it is revised by McIntyre January 24, 2000, Mills receives first list on December 20, 1999

Mills contacts Dr Russo by phone December 20, 1999

Mills contacts Drs Heinl, Ohnmacht, Mason, and writes and delivers Foster over 250 pieces of supporting evidence including information about practices by a Dr Graham Newstead and two mothers Melissa Bordeaux and Melissa

Drs Orson, Newstead and two mothers Melissa Bordeaux and Melissa names are removed from the list as well as the doctors in Mills' call group leaving two witness families from a list of twenty alleged adversarial witnesses (call group doctors tell Mills they were never contacted and would never testify that she was aggressive or threatening)

June 1, 2000 Dr Eden of RI Hospital is deposed

June 18, 2000 Dr Toselli is deposed with McIntyre present as his counsel

August 23, 2000 the hearing begins and lasts until December 7, 2000

Brief due January 8, 2001 but counsel Foster is not returning calls to Mills for over two weeks and Mills does not know if he prepared the brief

January 8, 2001 Mills delivers her brief to Board but Foster still not available did not send or deliver brief on date due

January 9th 2001 Foster contacts Mills and mails his brief even though Mills dismisses him as counsel and tells him to no longer send his brief.

Mills writes to Hobson the hearing officer to let her know Foster is no longer representing Mills

Foster refuses to withdraw as per Mills' request on January 9th but verbally told Mills he would on the 9th and would not send the brief

Rebuttal brief due January 18th 2001 -Mills spends ten full days and nights preparing this brief without counsel

representing her and mails it to Board at 4:30 pm January 17th from the post office in Mass.

Mills receives a call to her beeper from Foster at 4:45 pm January 17th wherein he tells Mills not to send her rebuttal but to let him do it; Mills explained he was dismissed on the 9th

Foster mails Mills a withdrawal signed but not dated and does not send it to the Medical Board

Mills again write to Hobson that Foster is no longer representing her

Hobson/Board/McIntyre place Foster's brief of January 11th on the record and not Mills' of January 8th though Mills and Foster had agreed to review their briefs together prior to submitting it to the Board

Mills writes an addendum including all the errors in Foster's brief including his usage of the term " clear and convincing evidence" though in APA LAW it is " preponderance of evidence." (Mills brought suit against Foster for collusion with McIntyre against Mills/Foster has been reprimanded by the State of RI Supreme Court for misrepresenting at least two other clients but in Mills' case against him and her complaint to the disciplinary board were all denied her; Mills was informed by the disciplinary council that Foster was suffering from a medical illness and had difficulties returning calls to many other clients which were repeated complaints reported to the council)

Mills motions to reopen for supporting evidence and witnesses on January 30, 2001 through Counsel Damon D'Ambrosio (counsel in an environmental complaint)

Mills brings complaint against Medical Board/McIntyre March 1, 2001 because she does not get her motion heard onn reopening for evidence

Mills and four witnesses including day care director Linda Essex (and DCYF employee) Kathleen Stone RN at hearing March 16, 2001 at which time her case is put off until May and then again extended to June 19th 2001

March 28th 2001 the Board is to meet on whether to allow evidence; Mills flies home from Florida for meeting and is told

the meeting was only a few minutes and her counsel now " semi-representing" her in the license case (Damon D'Ambrosio) tells Mills they need to get all the evidence together by mid April

May 4th Mills places a writ of mandamus motion to get an injunction to go back to work and have her allowed all supporting evidence and witnesses.

May 3rd the Assistant Attorney General Turilli places a motion to object to Mills' motion which is not even docketed yet and states that the Board had heard the January 30th motion on May 1st and denied it based on it all being " character witnesses." It was in part the evidence of Sheldon Whitehouse's suit against Speedy Oil the cause of gasoline vapors/MTBE in Mills' building

Three more motions to reopen for evidence are denied Mills - motions dated May 16th, 2001, June 11, 2001, and September 16, 2003.

Mills brings suit against Toselli for slander on June 14, 2001 and makes appointment and meets with DCYF July 10, 2001

July 11, 2001 Mills receives final indefinite suspension (though this was the term given to the NPDB and all other parties prior to there being a hearing)

APPENDIX B-1

RELEASE OF CONFIDENTIAL HEALTH CARE INFORMATION

In violation of RI statute section 5-37-3-4 and Federal HPAA laws, McIntyre forces Mills with threat of suspension to release confidential health care information without signed releases for same. .

McIntyre contacted Mills during her regular office hours on Wednesday December 2, 1998 threatening her with suspension if medical records on Tori and Katelyn Cinquegrana were not delivered to Dr Newstead by 4 pm that day. McIntyre made this demand at 10:30 AM and denied Mills' request that she do so on her day off December 3, 1998 Thursday. The two records had been copied and kept in a separate location from the office because they were now considered " legal" documents. On December 1, 1998 Mills sent Dr Newstead a letter stating that the Cinquegranas had not yet returned their signed releases for the records. It is Appellant's belief that it is with retaliation that McIntyre proceeded to call the very next day. No continuity of care was denied the family because Mills sent all immunization records with the releases on September 4, 1998, gave the shot records to the day care on September 15, 1998 and to Dr Newstead's employee Sharon on September 14, 1998. The mother contacted Mills on September 11, 1998 yelling at Mills that she was preventing "continuity of care on her children." (A term very suspect that this mother would use on her own) By RI statute the physician has 30 days from the date of receipt of a signed release, to release the medical records. Even had Mills began the time period allowed of 30 days from the verbal request of the father on August 17, 1998, the mother had already placed a complaint with the medical board on 9/11/98 less than 30 days later.

The issue is why did McIntyre not require a signature from the parents rather than label it in Mills' summary suspension as an " unusual practice in the release of medical

records." There is nothing unusual about following the HPPA Federal laws and the RIGL's regarding release of confidential health care information. Mills knew that if she released these records without the signature(s) of the parents she would be fined as per RIGL section (3) of 5-37-3-4 not more than $5000.00 for each violation or imprisoned not more than six(6) months for each violation or both.... The statute furthers it must be in writing on a consent form meeting the requirements of subsection (d).....Why did McIntyre require Mills be fully evaluated psychiatrically for this one complaint by a parent that clearly did not sign a release. Her own handwritten complaint of 9/11/98 to the medical board (not given to Mills until 12/10/98 and done so only per error of a secretary at the board with McIntyre not wanting Mills to see it) reads, ".... he did not have all the money so he did not go back.... she would let him sign the releases when he had all the money.." Not surprisingly with retaliation, McIntyre had the father sign an affidavit again on board stationary 12/1/98 that he " did sign the releases." (alleging that he signed on August 17, 1998) When McIntyre had the father sign this in response to Mills' letter to Newstead, McIntyre did not know Mills would receive the mother's handwritten complaint. A secretary responded to a request for the complaint which in error was not attached to a letter sent by the board December 3, 1998 for Mills to answer the complaint. She mailed Mills the original handwritten complaint rather than the typed one that the mother testified McIntyre aided her in writing.

McIntyre made this part of his crusade against Mills even more interesting. The mother wrote in her original complaint that the father DID NOT SIGN THE RELEASES. This is true. However, in order to bring a valid complaint against Mills McIntyre had to find some other issue. This became one of unpaid medical bills and copying fees. On September 4, 1998 Mills sent a separate release form for each girl to the Cinquegrana home. The copying fees were listed at the bottom of the releases. The state law is that a physician may charge $.25 per page for under 100 pages and $.10 per page over 100 with a

$15.00 transfer fee for each. The records are to be mailed or delivered within 30 days to the name designated (usually the succeeding doctor) on the form. The written release form must state the purpose for which the records will be used. At no time during Mills' practice did her release forms state any request for unpaid medical bills for services. In fact, the Cinquegrana family only received ONE BILL, as they testified to, during the entire four years of care with Mills. The date on the bill was 5/27/98. This was three full months prior to the father coming to the office requesting help in getting collection bills from Kent ER taken care of, questioning the date on two of the visits to Mills' office, and finally asking if he could have his "kids' records" right then. Mills explained that she had tried to help him with the

ER bills but that since he was no longer on Rite Care there was no authorization needed for the visits and that Mills was not even on call the night of their visit to the ER. She explained that their insurance had a "gap in enrollment" during two visits to Mills' office but that she would accept the payment as listed $45 for the weekday and $55 for the Sunday visit. Lastly, Mills had the father read the regulations regarding transfer of records which was posted on the reception window. He left simply asking how late Mills would be open that night, but never returned. Dr Milton Hamolsky asked Mills if she ever thought the father may not be able to read. It is Mills' belief after reading the father's affidavit dated 12/1/98 wherein he writes, " continuity of care of my children...." that he knows how to read. Ciniquegrana on September 21, 1998 in court testified, "McIntyre told us not to pay you anything." It is Mills' belief that he also told her not to sign the releases either.

The releases were sent 9/4/98. Mills by state law had until 10/4/98 to release the records (had she received the signed releases). A complaint on 9/11/98 by the mother was most concerning. Why would McIntyre not just have this family sign the releases or if there was question about it, not ask to sign other ones? The mother was asked if she received the releases but only kept screaming,"you are preventing continuity of care"

McIntyre went so far as to motion the Secretary of State's office (then James Langevin) to change the RIGL (not amended since 1992). It had read that prepayment was necessary for copying fees prior to the transfer of medical records. The newly amended law of September 8, 1998 reads that " no prepayment made be required prior to the transfer of medical records."

Before 9/8/98 prepayment for copying was required by law (is still state law for hospitals and state agencies). Even if this was an issue with the Cinquegranas, Mills only told the mother on 9/11/98 that she needed the signatures of the parent(s) before she could release the records.

March 2000 McIntyre again demanded medical records on one family that Mills had sent three sets of releases to. One teenager in this family was then in prison and Mills hand delivered the immunization records to the prison officials. Counsel for Mills advised her to give McIntyre the records but he wrote to McIntyre that we would release them though it " did not comport with the law," and that it would be " addressed in another forum." This court has the authority to address this issue for it is reason for Mills being denied her property interest and due process per the Fourteenth Amendment. Mills was not afforded equal protection of the law by McIntyre in particular but in whatever position he held as representing the RI Medical Board.

In conclusion, Mills was denied her constitutional right to abide by RIGL 5-37-3-4 to " not release confidential health care information without written consent on a consent form meeting the requirements of subsection (d) of this law."

APPENDIX B-2

Issue # 1) In violation of Mills' right to equal protection of the law and due process, McIntyre made public to the NPDB (October 26, 1999), Florida Medical Board (May 4, 2000) again to the NPDB (October 7, 2002) that according to his allegations Mills has a " mental disorder."

Issue #2) In violation of Mills' right to equal protection and due process, Mills was not provided with a list of evaluators per the RIGL statute 5-37 @ pg 86 (10) " by a physician acceptable to the board from a list provided to the licensee by the board if probable cause exists..."

Issue # 3) In violation of Mills' constitutional rights and due process is McIntyre writing to Dr Leah Oseas Cullen that Mills will not be able to get a report of her mental health evaluation or medical record so produced from the doctor but will only be able to receive a report made by the medical board. This violates Federal HPAA. Only if the record is created during the course of ongoing treatment and if information in the record could cause harm to the individual is it possible to deny one the right to their own medical record.

ISSUE # 1

REPORTING OF "MENTAL DISORDER"
(EVEN BEFORE A HEARING)

Without evidence to support McIntyre/Pitassi/medical board they have repeatedly reported that Mills has some " mental disorder." How is it that the RI Medical Board can write in it its Administrative Decision that Mills is in Psychiatric treatment, does not care for a diagnosis, did not get along with a Psychiatrist and did not care for the psychiatrist chosen by the board/state.
Mills was not in treatment by any psychiatrist when the board wrote their decision, not in any treatment prior to their decision, nor in any treatment currently. She has seen Psychiatrists for one time evaluations regarding her competency to practice medicine. Drs Rogoff, Seely, Jaeckle, Stewart, and Harrop never advised her of any need for followup.

Dr Ronald Stewart (Brown/Harvard) first became involved in this case on October 10, 1999. He had Mills seen and evaluated

on October 11, 1999. He told Mills that since McIntyre was so adamant about Mills having some " mental disorder" that Mills would never " win at the board, " unless he gave her a diagnosis of some illness.

Mills contacted Dr Ronald Stewart on the advice of Dr Scagnelli, a Psychiatrist that Mills used for her patients that were in such need. Stewart was away in Maine for the weekend of October 10, 1999 and told Mills to go to his office to see his social worker and another person that Mills believed to be a psychologist. Mills was seen by Jane and Dr Daniel Harrop. Some days after Mills was seen, when a report was produced, Mills learned that Dr Harrop himself was a Psychiatrist. Dr Stewart told Mills he represents in court only and that Dr Harrop writes the evaluations. Though Mills was later seen by Dr Stewart as well, he did not write any initial evaluation. Harrop wrote that Mills had OCD (obsessive compulsive disorder) but he further stated that Mills was competent to practice medicine and had no psychosis (Mills slandered by Alfred Toselli, M.D. and/or John J. Cronan, M.D. as being "psychotic" - a statement allegedly made on November 16, 1993 prior to Mills' hearing and made known to Mills on March 31, 1994 at the hearing).

Harrop and Stewart each saw Mills only one time. They never asked that Mills come in for further treatment nor advised her to get treatment for OCD. Stewart contacted Mills after each hearing date to find out as he stated, " how are you doing?" He gave Mills advice as to how best to deal with the situation- " keep up your nutrition, exercise a lot, do not think of this situation while you are driving the care, set time aside each day to think about it and then move on, drink some camollile tea when you feel tense and similar advice. However, Mills contacted a specialist in OCD, Dr Michael Jenike. After a one hour conversation Dr Jenike told Mills she did not have OCD, and thereby would not see her. He told Mills to "get rid of that Psychiatrist and lawyer." He made this statement in response to Mills stating that they had to give her a diagnosis to "win at the board." He further advised Mills to contact another general psychiatrist to get evaluated and so she did. Mills has seen three

more psychiatrists and taken the MMPI (standard testing) all of which has shown that she does not have OCD.

The medical board has erred in stating Mills "did not care for a diagnosis." First, Mills was not allowed any evidence which included these evaluations and her MMPI testing. So how is it that the RI Medical Board can make this statement in the Administrative Decision. Are they admitting to having violated the Federal Laws and RI laws to confidentiality of Medical records? Mills had these evaluations with her on December 7, 2000 and was prepared to submit them to the medical board. They refused but then make a decision which appears as though they somehow did get these evaluations. This violates Mills' constitutional rights in the most egregious way.

After Mills saw Dr Richard Jaeckle and took the MMPI with Dr Carla Goodwin, she went with her father to the offices of Dr Ronald Stewart to present him with this information. He reviewed the information, heard about Mills' conversation with Dr Jenike and proceeded to write an evaluation which read, " at the time Mills was seen by Dr Harrop it appeared that there were misrepresentations and mis communications. Dr Mills does not have OCD." Mills is not a Psychiatrist. She does know that it is ethically and morally wrong to attempt to label someone with a mental illness if they do not have it-particularly for purposes of "winning at a medical board." Even with knowledge of these facts she felt it necessary to speak with a specialist in the area. This is not what someone would do who " doesn't care for the diagnosis given."

Is the Medical Board referring to Dr Stewart as the psychiatrist that they allege " Mills did not get along with?" Mills got along very well with Dr Stewart. He called to morally support her after each hearing date and on holidays. Mills' not accepting his set of morals and ethics cannot be labeled by the medical board as " did not get along with him."

This again appears as though the board/McIntyre violated Mills' constitutional rights to privacy regarding her medical records. Mills was unable to respond at the hearing to those allegations as presented in the Administrative Decision. The

irony is that Mills wanted the results of that evaluation and her MMPI presented to the board but she was denied. Her constitutional rights to due process and a fair and just hearing were denied her most egregiously Mills did not authorize that McIntyre or any representative of the medical board obtain her mental health evaluations. She herself was going to submit them to the board on December 7, 2000 affording her the right to explain as she has done here.

Mills was asked by her counsel to take a test known as the MMPI and to do so prior to the close of the hearing. Mills took it on November 11, 2000 and had the results for December 4, 2000. The last day of the hearing was December 7, 2000. When Mills attempted to enter myriads of evidence but was rebuffed that day. Mills told counsel she wanted the original handwritten complaint of Cinquegrana entered, the MMPI results entered, and many other pieces of supporting evidence, but she was told McIntyre would have to decide. It is Mills' belief that because the results of the MMPI stated "normal clinical scales and content," it was not allowed. Why would a medical board not want to see a standardized testing result that cleared a physician? Why would this board rather take the action of reporting to the NPDB that Mills has a " mental disorder?" This is bordering on criminal activity- it certainly rises to the level of the most unethical, immoral behavior that a state agency could participate in.

In February 2002, Mills was again seen for the state of Florida by Dr Richard Seely-again not chosen by her but she was referred to him by Dr Raymond Pomm of the Physician Resource Network. Mills attended a Pri-Med Conference. Dr Pomm gave a keynote address titled, " The Impaired Practitioner." Mills heard the lecture and spoke with Dr Pomm about her situation afterwards. Mills hold a Florida medical license. He advised her to call his office the next day. Mills was seen immediately and again cleared as competent to practice medicine.

Mills was then represented by counsel John Harwood (then speaker of house State of R.I.). He made an agreement with McIntyre that Mills be seen by one last " pre-approved"

psychiatrist in Massachusetts. McIntyre wrote it should be done at either the McClean or Massachusetts General Hospitals. Mills was told to contact a list of psychiatrists at these facilities and to give the list to her counsel who would in turn give it to McIntyre. She was told McIntyre would chose one from the list. Mills was told they were all reputable and she could choose any on that list.

Not knowing the full details of their credentials, Mills chose the one she was referred to by Drs Ron Shouten (Director of Law and Psychiatry Mass General) and Tom Gutyheil (Mass Mental Health Center). She saw Dr Jerome Rogoff on June 25, 2002. He again cleared Mills as competent to practice medicine and to have no psychopathology. Mills later learned he was the Past President of the Massachusetts Psychiatric Society as just one of his achievements. Dr James Ellison wrote to Mills' next counsel because McIntyre told this counsel that he believed Dr Rogoff was " not competent" to evaluate Mills. Dr Rogoff has completely supported Mills as have Drs Seely and Jaeckle. They have all made their opinions known as to what is going on in RI with McIntyre and the medical board. They have all advised Mills to " get out of Rhode Island," it is " the old boy's club," and " nothing will satisfy Mr McIntyre." Milton Hamolsky told Mills that she could see 150 psychiatrists but if she did not see theirs it would not matter.

This is the issue: Mills has no reservation about seeing psychiatrists, clearly has undergone enough evaluations to determine whether she has any mental illness. She will not succumb to further abuse by McIntyre/board in allowing them to give her a mental diagnosis of " their choice." She has fully agreed to see their psychiatrist as long as it is done in the presence of one that has already evaluated her. This is to protect her constitutional rights to her privacy as well as allowing her an objective non prejudicial evaluation. This compromise to resolve this status quo was denied by the state. This only confirms that McIntyre/medical board will pursue giving Mills the diagnosis that Toselli and Cronon " choose for her."

Mills was finally given a list of names of psychiatrists as chosen by the state on September 21, 1999. This was only upon

demanding from her counsel that unless received she would dismiss him. Within hours of that conversation Mills got the list. She immediately contacted several who stated they would not get involved in a legal matter. Dr Leah Oseas Cullen accepted seeing Mills but informed her that she could not make the appointment until October. She told Mills it did not matter because as she stated, " the politics of the situation are going to keep you out of work a long time." The reasons Mills did not see her were not that she did not choose to but because she learned that McIntyre had written to her his own fabrications and delusions about the events. He had created a picture for this evaluator that Mills was unstable and " psychotic," by writing false allegations as "Mills did not own a copy machine because she believes they emit poison." This can only be construed as making egregious derision of serious environmental issues. Allowing hazardous chromium oxide xray fluids to pour through a ceiling because the dentist did not use care in watching her tanks is serious. Allowing gasoline and MTBE to contaminate underground waters, sewer systems and adjoining properties is serious. It is also serious to know that persons are adversely affected by hydrocarbons as toluene that come from copiers, particularly when not adequately ventilated in office settings. The issue about copiers did not happen to Mills and she is constantly xeroxing as she will do again when she completes the writing of this motion for writ of certiorari.

McIntyre also wrote to Dr Cullen the following false allegations as 1) Mills had to cancel all her patients to copy medical charts on patients and 2) Mills kept her records in an undisclosed location near Boston to name just a few of his fabrications. These twisted statements came from the private conversation that Mills had with McIntyre in the call he made to her office on December 2, 1998 threatening her with suspension if she did not release the two charts that day by 4 pm. The rest of the fabrications were from the investigatory hearing to which no stenographic report was made.

Mills kept the copied records of the Cinquegrana children at her home in Massachusetts in a file for medical

records already released to families. Norcal malpractice insurance company advised that physicians should keep records which may become part of a legal case, in a safe place and apart from those in current use in the office so as to not get displaced. In fact since all medical charts had to be copied/xeroxed due to contamination in Mills' office, the original charts were kept in the basement of the office building at all times and later in Mills' garage in her Rhode Island residence. Copied Cinquegrana records were at the Mass residence on December 2, 1998, to which only Mills herself had access. Mills was seeing patients on Wednesday from 9:30 AM until 5 pm but had to cancel two patients that afternoon so as to meet McIntyre's demand that day- fearing suspension. Mills drove to Mass and brought her secretary Shannon Horan as witness to the events. Mills and Horan proceeded to make extra copies of these records for legal purposes and drove to Newstead's office by 3 pm. This was not a typical procedure of Mills but one enforced on Mills with a threat by McIntyre that she would be suspended. McIntyre then writes to the Psychiatrist that this is a routine practice for Mills. He also told the doctor that Mills did not own a copy machine due to " poison" and that Mills copied all records " by hand."

Mills never copied patient records all by hand- another false allegation. Mills did not own a copy machine because she was purchasing medical equipment and did not have the funds to buy a high speed copier. Mills copies all records at a Staples store and at one time had copy privileges at the hospital and used a copier at her brother's law offices. Mills told the investigating committee of a doctor that she knows who was adversely affected by toluene a VOC found in copiers but this was not something she had experienced. This made light of a very serious environmental issue regarding Mills' office building contamination- one of chromium laden hazardous x ray tank fluids pouring through the ceilings by error of a dentist Elisa Liberto and a 12, 000 gallon underground storage tank leak which produced 90.6 ppm vapors in Mills' other building to name just a few.

ISSUE #2

FORWARDING "LIST OF NAMES"

Assistant Attorney General Turilli (Turilli) stated in pre briefing statement @ pg 4 that there is " no statute or regulation or rule citing a time frame as to when a physician must be forwarded the list of names of psychiatrists or medical doctors. It is unambiguously written that this list is to be forwarded to the physician WHEN and IF "probable cause exists" to require an evaluation. Mills cites that using the lower court's own argument about the "clear and unambiguous" reading of statutes, RIGL 5-37-1.3(10) requires that the " licensee shall be provided with a list of physicians if probable cause exists..."If it was truly deemed by McIntyre that a physician is as he alleged, " mentally impaired," so as to require an evaluation, it would seem most logical/rational to obtain this evaluation as soon as possible rather than allow the doctor to continue to care for patients for more than a year. The statute reads that at minimum the list should have been forwarded if not with the demand but soon after. (There was no "negotiation" with Mills' counsel to not obtain these names and in fact Counsel Bowerman was given one name on June 30, 1999- that of Dr Jeffrey Hunt a child psychiatrist).

ISSUE #3

COMMUNICATION WITH PSYCHIATRIST

In violation of Mills' constitutional rights and due process is McIntyre writing to Dr Leah Oseas Cullen that Mills will not be able to get her report of her mental health evaluation or medical record so produced from the doctor but will only be able to receive a report made by the medical board. This violates Federal HPAA. Only if the record is created during the course of "ongoing treatment," or if the information in the record could cause harm to the individual, is there the legal option to deny one the right to their own medical record.

Defendant states @ pg 5 of pre briefing statement, " communication by McIntyre to the psychiatrist was not in violation of Appellant's rights to a fair and non prejudicial examination." They omit that McIntyre writing to Dr Cullen on October 1, 1999 (four days prior to the set date of exam) stated Mills was never to be afforded the right to see her own mental health evaluation and record as produced by the psychiatrist. Mills cites RIGL 5-37-6.1 and 6.2 on the confidentiality of mental health records and Federal HPAA.

McIntyre altered his own witness testimony, the witness complaints, the facts as told to him by Mills on December 2, 1998 and at myriads of times when he would harass her at her private office (dates of October 17, 1996, October 9, 1998 to name a few). The letter to Dr Cullen contained a myriad of mis-representations, his versions, fabrications, and delusional beliefs as to what took place. Some of these fabrications by McIntyre cited from his letter to Dr Cullen were presented at the end of Appendix B 2 under Issue # 1.

APPENDIX B3

RIGHT TO HAVE WITNESSES AND EVIDENCE

In violation of Mills' due process and equal protection of law is the fact that all necessary evidence to determine the facts must be placed on the record. At all times this was not afforded Mills. Duty of AHO(Administrative Hearing Officer)is to have on record all necessary evidence as " there must be adequate relevant evidence so that a reasonable person could accept the evidence as sufficient to support agency's conclusion." Underwood vs Pierce 487 US. In reality in this case, McIntyre determined what would be allowed placed on the record. Mills' counsel told her, McIntyre had to "give his permission" to allow the original handwritten complaint of Cinquegrana to be put on record. The issue was not discussed with the AHO (Mills observed all discussions about this written letter between McIntyre had her counsel). 249 other pieces of supporting evidence, including gasoline testing results, which would prove Mills' credibility along with 35 witnesses were denied.

Her supporting evidence was brought to the hearing each day in two suitcases, with Chairperson Dr Stanley Stutz aiding Mills in carrying it). In fact, Mills handed many of this evidence across the table to Dr Stutz, who simply nodded that he did not want to see any of it.

Why would the Chairperson and AHO as well as McIntyre not allow Mills to show her CV/resume to the two other persons on the hearing panel? McIntyre stated, " you put Yale and Brown on your CV didn't you?" Mills answered, "No and tendered her CV so that all could see her answer was truthful. They did not want to see it and denied Mills her right of due process and a fair hearing. (This CV was required on Mills' RI Hospital application for privileges in Pediatrics so MUST be part of the record below) In reality it was taken out of the record violating her due process. Instead the hearing panel was led to believe by McIntyre's misstatements that Mills may have lied on her CV.

With misrepresentation, concealment, and misstatements McIntyre and the RI medical board denied Mills a fair and just hearing.

Dr Robert Eden, a Pediatrician from RI Hospital, testified, " assuming everything I have been given to be true," when he based all his testimony on the mother's complaint letter. When he was asked if he knew if Dr Mills' building had hydrocarbon vapors in it he testified, " I don't know." When asked if he knew what Williams syndrome was, he answered, " I don't remember what it is offhand." When asked if he had any expertise in Psychiatry he answered, " No." When asked how many injuries he found in the medical charts of Sarah and Erin Brown, he answered, " I found one." He admits the old medical records were illegible for the most part but that what he could read allowed him to be able to make a decision as to whether it was appropriate that a call be made to DCYF. He was able to ignore 17 injuries in making his decision. Yet he testified if the doctor found them to be of non-accidental means and if they all occurred then a call would have to be made. He was able to

testify that Appellant was " wrong" about the possibility of Tori having Williams syndrome even though he did not know what it was. He read one paragraph in a textbook which did not discuss microcephaly (small head circumference) a very significant feature in Williams which Tori certainly had. He testified in his deposition that he believed Mills had " paranoid schizophrenia" and later testified " maybe this is too harsh." At the hearing he testified that she may have the " possibility of impaired judgment" regarding the " toxic building stuff," " possibility of an inappropriate call to DCYF," and the " outside exams." He was asked if he knew where these exams took place, if the children were disrobed, or if he knew anything about these " exams" to which he testified he knew nothing about them except what the mother wrote in her complaint. He testified if they were a very very cursory exam not meeting the criteria of a true physical exam then they it would be alright. This is exactly what they were in order to simply sign a day care and camp form allegedly needed by the mother for the next day.

In violation of Mills' due process, this so called " expert witness" clearly did not have expertise in any of the questions to which he gave his opinion to all reasonable medical certainty. It is written in the APA as well as RIGL that regarding evidence in these hearings before state agencies, the rules of civil procedure are followed as in the judicial court system.(Appendix B24)

Appellant cites Millerick v. Fascio 120 R.I. 9,384 A 2d 601 (1978) wherein medical consultant for agency reached opposite conclusions as to plaintiff's doctor rather than obtaining an independent physical examination. The court further concluded that the decision which relied solely on the consultant's opposite conclusion was clearly erroneous. Without independent review of any issues which he knew by June 1, 2000 at deposition, he would questioned on, Eden relied solely on the mother's testimony. (Appendix B24- case law-"medical experts)

APPENDIX B-4

DENIED EQUAL PROTECTION OF THE LAW

Appellant was denied due process and equal protection of law when her statements as testified to regarding what DEM told her, what her employees and patients informed her were not allowed as hearsay; yet the Brown witnesses were able to testify as to what their then 15 year old daughter told them regarding her * 69 of one phone call. [the parents testified that the daughter gave them each a different version of how an alleged call made some time in September 1999 was allegedly answered at the office of Dr Mills- an office Mills had not entered since March 18, 1999 due to the gasoline vapors]

DEM's Tom Campbell condemned one room of Mills' office until the carpeting was changed due to the hazardous CrO bearing xray discharge through the ceilings from the dentist office above. Mills' employee Tina Von Hein complained that the foul chicken like vapors caused her to be dizzy after several hours, like she had " three glasses of wine." Lorraine Miller's affidavit states that the terpentine smelling vapors made her have trouble breathing in just five minutes in that office. There were many such complaints.

APPENDIX B-5

ATTORNEY GENERAL SHELDON WHITEHOUSE CONFLICT OF INTEREST

Appellant tried to submit supporting evidence to her testimony on five attempts to no avail. This included during the dates of the hearing. Attorney General Sheldon Whitehouse's case against Speedy Oil et al P.C No -00-229 was not allowed in as evidence by Sheldon Whitehouse (represented by Turilli) himself in his representation of the Medical Board and McIntyre. Why would an attorney general of a state in these United States not allow another citizen the right to represent herself with this

information so as to prove to the Medical Board that she was not " delusional" regarding such contamination. In fact, Whitehouse is so allegedly environmentally concerned as to be bringing suit against the paint companies from over 110 years ago for the lead based paints that were used.

Not only does this question rise as to conflict of interest but does not support a rational or logical conclusion to deny Mills such supporting evidence. This is not " character witness" supporting evidence as Turilli deemed it would not be information that would further help the hearing panel to make a meaningful decision.

All the above violate Mills' due process rights to a fair and just hearing and equal protection of the law.

APPENDIX B-6

REPORTING SUSPICIONS OF CHILD ABUSE

McIntyre deemed it retaliation and the hearing officer Hobson made the statement that it was " obvious" to be retaliation when Mills contacted DCYF regarding the child abuse investigator's family and the now known 29 injuries to two of his girls. Mills made this call after contacting a Massachusetts law firm and the RI Child Custody Advocates office. Both advised her on how to proceed and this was to call the hot line at RI DCYF. Mills had asked them what she should do with information that she had become aware of on September 25, 1999. Mills was faced with this decision already knowing that Ed O'Donnell of DCYF had rebuffed another concern about possible sexual abuse on a two year old that Mills brought to his attention in person on September 23, 1998. He claimed Mills was retaliating against this parent because she was going to another Pediatrician. This child had spent the weekend with her father (parents not married) and when returning to the mother complained about her genital area "hurting her." She had a large ecchymosis to the right femur (mother did not state this prior to undressing the girl) and noone could approach the girl during an

attempted physical exam. She continuously screamed and struggled with the mother in attempts to undress her. The mother then stated that the bruise was from a fall down the stairs at the father's home. The mother and biological father of the child were in several contentious arguments at both Mills' office and at the RI Hospital ER- both noted on record. The first event resulted in the mother fainting and being taken by ambulance to the ER. Social services were involved several times with these parents regarding who was to care for the girl.

Appellant knew that something would take place not in her best interest if she had to again report the Brown family. Ed O'Donnell is a personal friend of the Brown family as Brown testified, " our children play together." This was reason enough for the RI Medical board/McIntyre/Hearing Officer to believe rather than a suspicion of abuse, that these parents could never have caused 29 injuries to two of their girls. Ed O'Donnell has himself been demoted at DCYF and had a domestic violence charge filed against him in July 1999. Simply knowing Ed O'Donnell is not reason to do a "non-investigation" of a suspicion of child abuse nor is it legally or morally ethical to write in the DCYF report that Ed O'Donnell " knows of Mills," and the Brown parents believe Mills is "suffering from some paranoia, psychosis, or mental illness." This was his reason to "Downgrade" the report to DCYF. The complaint was not even investigated but McIntyre/Medical Board wrote in Mills' Administrative Decision that it was " thoroughly investigated." Just the day before Mills' "true" indefinite suspension of July 11, 2001 (not the indefinite suspension reported to the NPDB by McIntyre/Board in October 1999 when it was clearly a summary suspension), Mills with counsel, met with Ed O'Donnell and others from DCYF. The agreed to do an " internal investigation" because NO investigation had been done. Later Mills received a letter from DCYF stating that Dr Carol Jenny a child abuse expert had reviewed the case and found no abuse. Mills contacted Dr Jenny and asked her if she had reviewed the NEAR SIDS records of Bridgeport Hospital. She stated she never did and furthered that it would be necessary to determine if abuse

had occurred. Dr Jenny is well written in the issues of apnea as related to head injuries. With the younger Brown girl having a skull fracture just two years after the NEAR SIDS event in her sister, with epilepsy resulting, with leg length discrepancies and scoliosis at a very young age- one can only wonder why Dr Jenny could make her final opinions on this case without doing what she so avidly supports in the medical literature. Could one possibility be it was a case regarding Mills and Dr Jenny is employed by RI Hospital (the very hospital keeping Mills off staff and being party to slandering her "psychotic")? If Dr Jenny attempted to obtain the NEAR SIDS records that the mother so adamantly told all RI Pediatricians treating her children, were "Lost in the Navy," was Dr Jenny at risk of losing her job at RI Hospital?

Dr Randell Alexander an internationally known child abuse expert did write an evaluation after his review of these very same medical records. He wrote, " the call to DCYF is not unreasonable and is not out of line." Dr Mark Feldman emailed Mills with this message, " please contact Dr Randell Alexander a foremost international expert in child abuse." He continued, " it appears to me as not only Munchaussen by proxy but severe child abuse as well." Dr Alexander contacted Mills on the morning of November 6, 2003 to inform her that if the RI Superior Court Justice did not allow the subpoena of the NEAR SIDS records from Bridgeport Hospital, then in his opinion Mills was not going to prevail in her license appeal either and that this was very unusual for a Justice to not allow such a subpoena.

Here two experts in child abuse have differing opinions about their review of the very same medical records. With this knowledge how are McIntyre/Hobson-a real estate lawyer able to allege that this suspicion of child abuse is "unfounded?" How can anyone determine this without having all the information available to them?

However, it was her duty as a citizen (Mills told she was to cease practice of medicine) to make the report when she learned that the mother's stories about how her daughters were injured contradicted the reports from the ER's and the old

medical records, the apnea event was more specifically noted as a NEAR SIDS (1980 term) in the chart of the younger sibling. This suspicion of abuse was heightened when one month after Mills' report she learned that the mother's story about the " apnea records being lost in the navy," was not factual but that per her own written words were from a Bridgeport Hospital- still present on microfiche when Mills contacted them November 11, 1999.

Mills did not follow the statute of reporting abuse as a physician would do under the usual circumstances because she was told to cease patient care, was no longer the treating physician so could not file a written PRE on the two girls after making the hot line call. Eden testified this had " never happened to him but that he suspected the state would have to examine the children." Whether Mills called anonymously or not would have made no difference because McIntyre would have deemed it either way an act of retaliation. Mills only made two reports to DCYF in her private practice in four years; according to Randell Alexander, M.D. a child abuse expert, " far below that which many doctors would have made." In both cases it was deemed a retaliatory act by McIntyre/Ed O'Donnell (personal friend of the Brown family) and the Medical Board and hearing officer (who is to remain objective at the hearing). Dr Alexander stated the call to DCYF was " not out of line" and was " reasonable" based upon the paucity and spotty regular medical care and frequency of injuries to these two children."

APPENDIX B-7

RI STATUTE-REPORTING SUSPICIONS OF CHILD ABUSE

The Defendant wishes to "embellish" the facts to make it appear again as "unprofessional conduct" on the part of Mills in having reported a suspicion of abuse to the hot line on October 5, 1999. (McIntyre "embellishes" facts about the age of "the girl" Mills reported to the hot line- see Appendix B-9)

Mills was denied her right to abide by RI statute 40-11-6 in the reporting of suspicions of child or sexual abuse both on September 23, 1998 and again October 5, 1999 (the only two reports of suspicion of abuse that she believed she had to make in her five years of private practice).

Defendant wrote in pre brief that Mills contacted DCYF one (1) week after the parent made her complaint to the medical board. The complaint by the mother was written sometime in August and given to the medical board on September 7, 1999. It was forwarded to Mills' counsel on September 16, 1999. October 5 is not just one week after the 16th of September but is twenty (20) days or almost three weeks time.

Having said this, one needs to look closely at the facts. Mills observed a Dateline TV show about Florida's child abuse protective agency. It was a story about a girl named Kayla who was ultimately murdered by her father. However, it was confirmed that this father attempted on many occasions to alert the organization to his own instability. After viewing this on October 4, 1999, having spoken to counsel in Massachusetts about the issue, Mills then reported what she became aware of on September 25, 1998. As expert Dr Eden found, the old medical records were for the most part "illegible." Mills in reviewing these records in order to answer the mother's complaint (having 14 days to do so) found the words "suture" written repeatedly throughout as well as the words NEAR SIDS noted in the medical chart of the sibling of the girl that had an "apnea" event. Mills did not see the words NEAR SIDS in the patients' records because the mother never brought Mills the infancy or childhood records on this girl. The mother stated, " they were lost in the Navy." Mills contacted the Kent, St Joseph and RIH to obtain the ER records on the injuries requiring sutures and others. Tetanus shots were given repeatedly some within 4 months of each other to one girl. Some of the injuries occurred by means that the mother did not describe. There were questions, suspicion but not nearly as many as were about to appear on November 11, 1999 (after Mills made the hot line call).

APPENDIX B-8

ADMINISTRATIVE HEARING OFFICERS (AHO)
(Refer to Appendix B-3)

Rules and Regulations of the Rhode Island Department of Heatlh
Practice and Procedures before the Department of Health
Under Chapter 35 of Title 42 of the R.I.G.L.
Access to Public Records of the Department of Health
Under Chapter 2 of Title of the R.I.G.L.
May 1997
Section 13 Contested Hearings
d)Decorum-
e) Duties of Administrative Hearing Officer (AHO)
h) Witnesses and Evidence
i)Evidence included

d) It is the duty of the AHO to take appropriate action if the "decorum" of the hearing is not conducted in a "manner consistent with the standards of decorum commonly observed in any statewide R.I. court."
e) The AHO shall: 1)conduct the hearing 2) make all decisions regarding admission or exclusion of evidence or any other procedural matters

This did not take place as McIntyre made the decisions to exclude all Mills' supporting evidence that she brought in two suitcases (Dr Stanley Stutz, on the Hearing Panel of three aided Mills in carrying into hearing); McIntyre had to "authorize/permit" Mills to have the original handwritten complaint of the parent (this should not have had to be authorized or permitted because this letter was the only one that should be on record-the original "unaltered" complaint of the patient is the one forwarded to the physician)

The AHO shall: 6) participate in the proceedings to insure that the hearing proceeds in an orderly and expeditious

fashion and to ensure evidence sufficient to determine the facts are on the record

h)(2)(i)rules of evidence- in contested cases the Rhode Island rules of evidence as applied in civil cases in the Superior Courts of this state shall govern. Irrelevant ,immaterial or unduly repetitious evidence shall be excluded in all proceedings wherein evidence is taken.
(iii) objections to evidentiary offers may be made and shall be noted on the record.....when objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling....

When McIntyre asked if Mills was going to present the monitor reports and records of the contamination to the building(s) Mills said she would (3M Corp results of gasoline for example)Noone including the AHO objected to Mills entering this as supporting evidence (in fact it was asked for at the hearing) This information was necessary in this contested case because the mother complainant testified Mills was "bizarre" in her belief that the building(s) were contaminated and Mills knew of the contamination because it was well founded by DEM and other agencies.
AS THE RECORD NOW STANDS IN THE LOWER COURTS THERE IS NO SUPPORTING EVIDENCE FOR EITHER MILLS OR THE COMPLAINANTS TO DETERMINE THE FACTS
Therefore the AHO did not complete her duty as directed by the rules and regulations of the State of Rhode Island and thereby prejudiced Mills and deprived her of equal protection of law and due process.
Even had the supporting evidence for the contamination been objected to by the Defendants, "such evidence may be received subject to a later ruling...." In this case with it asked for, not objected to by either party to the case, it was a matter of Mills finding it in her suitcases (Mills handed many pieces of supporting evidence to Dr Stutz but was rebuffed every time).

Dr Stutz and the AHO made sure that billing from 7 years past on the Cinquegrana family be submitted as evidence; that all ER records that Mills obtained from September 25, 1999 on, be placed on the record, but neglected for some agenda, in placing the ONLY evidence regarding the buildings on record. This violated Mills' due process and equal protection of law. This information was NECESSARY to determine the facts. No evidence on the record as it now stands is SUFFICIENT to determine the facts.

Section 13 (p) on Weight of Evidence

"The matter is closed after the final decision and order is issued."

This "closing" did not take place until July 10, 2001 so that three motions to submit the evidence that was asked for by McIntyre were denied Mills in violation of her due process.

Section 13 (o) Evidence after Completion of Hearing

By agreement of parties or by AHO re-opening the hearing are two means by which the laws allow for evidence to be submitted prior to the final decision/order which constitutes the close of the matter.

It was the duty of the AHO to have this supporting evidence on the record. Almost fifty (50) pages of testimony related directly to the issues of contamination of Mills' buildings. It was the alleged reason for the Brown complaint.

APPENDIX B-9

ALLEGED VICTIM WAS JUST 16 YEARS OLD

In violation of Mills' due process McIntyre in his affidavit in the instant case stated that Mills called the hot line about one patient who had reached the age of 19. This is not factual. It was restated much the same way by Turilli in her

objection to Appellant's motions, " report of the parent of one patient who had attained the age of 18." The CPC protocol by DCYF states the ALLEGED VICTIM is Erin Brown then 15 years old (reference person) and states Sarah Brown as the sibling. Mills also reported a fractured shoulder on the mother and the sibling's fractures which occurred in the same time frame as those of her sister as well as having been a NEAR SIDS(the records of which were never given to Mills or any other RI Pediatrician seeing these children prior to Mills)

(See medical record progress note 10/18/90 by Dr Edward Aspirinio which reads, " apnea records never given to Dr Barrett from US Navy) The mother told all they were " lost in the navy."

In order to violate further Mills' rights and to further the appearance that Mills committed an act of unprofessional conduct the reports read that Mills ONLY reported a girl who had attained the age of 18 or 19 and was emancipated.

APPENDIX B-10

DENIAL OF NEAR SIDS RECORDS SUBPEONA

In memorandum in support of objection signed by McIntyre he cites, " Am Jur.2d Trial 382(1991) in which it reads, " The trial court should not reopen a case except for good reasons and in proper showing." The Bridgeport medical records were not " available at trial," as McIntyre stated, " likewise in this Disciplinary hearing pertaining to Mills it appears that all the evidence was available at trial." McIntyre further stated in objection to letters rogatory, " it is improper for Plaintiff to attempt to reopen administrative matter when the record is closed and Plaintiff litigated this issue on the administrative record. In Lemoine v Department of Mental Health and Retardation & Hospitals 113 R.I. 285, 320 A.2d 611 (1974) " the statute did not limit authority of superior court to remand administrative appeals to the administrative agency so that more evidence could be taken and agency could reevaluate its

decision." With violation of Mills' due process and right to a fair and just hearing the inclusion of this information during the hearing, after the hearing but before proceedings were closed and in the lower court was denied and Mills was falsely accused by the mother of having removed the information from the medical charts. Yet both prior Pediatricians never received this very information for as Dr Aspirinio wrote in Sarah's medical record on 10/18/90 " apnea records did not go to Dr Barrett from US Navy." McIntyre/Board wrote in Mills' suspension that the family was " thoroughly investigated," though the father's testimony was that it was a " non- investigation. (T pg 64 9/21/00) McIntyre/Board wrote in Mills' suspension that she " hysterically screamed" at the father in the conversation but the father testified Mills was courteous to him at all times in the one to two minute conversation wherein Mills simply asked why they wrote the complaint. Steve Brown admitted he told his supervisor of only two injuries to one girl and one to the other. When asked if they all occurred, those that Mills reported to DCYF, he admitted that they all occurred, " Yes." (T pg 81 9/21/00) Mills has contacted the acting Governor of Connecticut to put a stay on any destruction of these records until such time as the issue becomes moot and/or Mills may be cleared of all false allegations.

The Board and McIntyre have improperly weighed evidence, made omissions to the record as it stands changed wording as testified to by both Appellant and the Board's own witnesses and concealed other information rendering the decison arbitrary and capricious and erroneous, (Lake Terrace Property Owners Assn v NewOrleans 567 So.2d 69 (La) at error of law.

On the other hand courts may reject an agency's credibility determination in appropriate cases. NLRB v Payless Cashway Lumbar Store, Inc 508 F.2d 24 (8th Cir) Where credibility determination is irrational Breeden v Weinberger 493 F.2d 1002 (4th Cir) or where agency has misconstrued it, the court may ignore credibility determinations made by the agency. Robinson v Workmen's Compensation Appeal Bd 589 A.2d 778 (Pa Comm Ct).

APPENDIX B-11

ALTERING COMPLAINTS

RIGL 5-37(1.3) " all complaints are to be forwarded to the physician in UNALTERED form...." As to authority with regards to complaints: RI state statute 5-37-5.2 reads, "....any person, firm, corporation...may submit a written complaint...., and rules and regulations at 14 110 001-13 reads at Rule 4b Notice to the Physician, " upon filing a complaint the Board shall serve upon the physician involved a copy thereof."

The complaint must be investigated by the board (in this case fully by McIntyre) to determine if it merits consideration or whether it is frivolous or unfounded. Violating Mills' due process McIntyre aided the mother in altering her handwritten complaint as Cinquegrana herself admitted in testimony " the man in red tie helped me," making a new complaint letter. This violates the RIGL's regarding " unaltered copy of patient complaint is forwarded to the physician..." A letter sent to Cinquegrana dated September 16, 1998 reads, the board will "forward a copy of your UNALTERED complaint to the physician..." Further in violation of Mills' due process, McIntyre after aiding mother, determined it was with merit, prosecuted the issues before the board. McIntyre determined prior to a hearing that Mills should be required to undergo a full psychiatric evaluation based on the one complaint. (There were no other complaints forwarded to Mills so if in fact any others existed at that time, it would again be in violation of Mills' due process that she did not receive them) That having been said, one can only assume that McIntyre required the evaluation as stated based on one and only one complaint. On February 10, 1999 her counsel wrote to McIntyre asking for any other complaints to be forwarded by the 12th day of that month and none were forthcoming.

This very mother, signing her name to an altered complaint letter, wrote on an intake form at a Cardiologist's office visit ten days after last seeing Mills, that her only concern

about her daughter was her, " not gaining weight." Certainly if she had been told she would not live past twenty and would be a midget, dwarf, or elf she would have written this as her concern during that visit. These are just some of the false allegations which comprised a 3 page letter McIntyre and the mother wrote together and not present in the original complaint.

Day care director Linda Essex described parent as a "pathologic liar." Mother testified that she was not told to return for follow up to cardiologist and that no further tests were needed. With denial of Mills' due process the Medical Board found this parent to be credible when at pgs 18-19 of Tori's medical chart the Cardiologist writes, " follow up in 6 months for an EKG." The mother testified she switched doctors to " get a second opinion." She states that doctor ordered a head xray on the first visit to him. This is obviously an additional test. It was not ordered on the first visit but one year later as the child's head circumference further declined from 25th% to less than 5th %(11-27 months) again contradicting mother's testimony.(At birth was 95th%)Mother used word "midget" in her complaint but first testified it was "dwarf," then stated it was a word similar to dwarfism. No mention of statute took place at all-McIntyre altering complaint with mother. (US vs De Zann 1998-perjury).

McIntyre even altered his own witnesses' testimony 1) changing Steve Brown's testimony from she was " courteous" in the call to " she "became hysterical and screamed," 2) changing his testimony DCYF did a "non-investigation" to they did a "thorough investigation."

After discrimination by RIH, Mills wrote a lengthy statement about her care of patients. One patient had a condition in which the life expectancy is less than 20 years (as determined by statistics relating to the mere approximately 100 cases in the United States).This parent testified on Mills' behalf at the RIH hearing but her testimony was removed from the record as were Mills' other witness testimony. It is believed that McIntyre took this information and fabricated it as to relate to Cinquegrana. The altered complaint reads,"Mills told the mother her daughter would not live past twenty." Mills knows there is no change

in life expectancy in Williams syndrome so could never have told this to Cinquegrana. It does occur in San Fillipo B syndrome a type of mucopolysaccharidoses which the other girl was diagnosed with. It is with irony that a parent whose daughter has such a tenuous life span would fully support Mills but another parent would denigrate Mills with McIntyre's assistance. The day care director told Mills that Cinquegrana was "watering down the formula" she gave to her infant.

FORWARDING COMPLAINTS

In pre briefing statement, Defendant states there are "no" five (5) day regulations or statutes with regards to the filing of complaints against physicians. Appellant cites RIGL 5-37-2.1 and the RI Medical Board of Licensure's own Spring Bulletin of 1994. In this issue Milton Hamolsky, M.D., then Chief Administrative Officer wrote about "Complaints" by patients concerning doctors.

The article reads in part.....SOURCE OF COMPLAINTS By Milton W. Hamolsky, M.D. "From time to time the Board has been the object of criticism by physicians (as well as the public) after the appearance of a newspaper article or broadcasted news item concerning disciplinary action against a physician. .....suggested a possible lack of understanding of the functions and policies of the Board. When the Board receives an allegation against a physician (in writing and signed) .....the Board reviews the complaint, evaluates our jurisdiction and determines the "opening" of an investigation. If the case is opened the UNALTERED ALLEGATION is forwarded to the physician after FIVE DAYS for reflection.....with request for response within 14 days in writing with any supporting documentation."

This did not take place in this case. Mills did not receive the original handwritten complaint until the board made an "error" sending her the handwritten original rather than the altered typed one on December 12, 1998. When McIntyre had

the father sign an affidavit December 1, 1998 he had no idea Mills would get the original. The father wrote he signed for the releases for the records and the mother had written he did not." Mills received a typed complaint (on board stationary) on October 15, 1998 more than one month after the mother wrote her original complaint to the board The father's affidavit was not given to Mills until February 1999.

APPENDIX B-12
MCINTYRE DESCRIBES DIAGNOSES AS "BIZARRE"

The other mother complainant testified at pg 21 9/21/00 that Mills was making a " bizarre" statement when she said there were gasoline vapors in her building and she had her blood tested for benzene. There is nothing " bizarre" about this serious environmental situation. Why is a mother with no experience in environmental issues or in mental health issues found credible by McIntyre/board? Why did this parent not review the public records on the building contamination first before making such a complaint? She and her husband, state of RI child abuse investigator could access State of R.I. Public DEM records as easily as anyone in R.I. Mills' father had a stroke and heart attack resulting from inhalation of the benzene vapors. He spent hours in the enclosed basement area in attempts to solve the problem while Mills and her employees remained upstairs with the windows open at all times (even in winter months).

The Board/McIntyre wrote in Mills' summary suspension of October 19, 1999 that Mills gave " bizarre" diagnoses to patients. There is nothing " bizarre" about the diagnoses given. In the case of Tori Cinquegrana NO diagnosis was given but a differential was produced from which Mills could determine what the cause of her failure to thrive was: 1) malnutrition 2) malabsorption 3) rule out R/O possibility of Williams syndrome. Other patients did receive, albeit interesting but certainly not "bizarre" and clearly necessary diagnoses as follows: 10 yr old male with history of seizure at birth, mother told she is neurotic and that child is fine- diagnosed after Mills determined his calcium level was 5 and inherited from mother- with

pseudohypoparathyroidism; 2 yr old female diagnosed with hereditary spherocytosis after previous doctor treated her for two years with iron for iron deficiency anemia (could have resulted in heart failure); 14 yr old female diagnosed with asthma by previous doctor; Mills took one Chest xray on first visit and it was determined that she had primary pulmonary hypertension for which ventolin prescribed for years by previous doctor was not the treatment. A one week old infant discharged from W&I hospital as normal was diagnosed on first visit to Mills as having bilateral congenital hip dislocations.

What is the real reason for the unfair characterization of Mills as giving " bizarre" diagnoses to patients?

There must be adequate relevant evidence so that a reasonable person could accept the evidence as sufficient to support the agency's conclusion. Pierce v Underwood 487 US 552, 101 L.Ed 2d 490, 108 S. Ct. 2541. Examination of the record as a whole demonstrates that the decision(s) below are characterized by substantial factual errors. Where the Supreme Court find that the agency has drawn improper or irrational inferences from the evidence, the Court will not demur from correcting such errors. Thus where the agency's resolution of factual matters before it is defective and prejudicial, the court may deem it clearly erroneous and reverse. Millerick v Fascio 384 A.2d 601,(R.I. 1978) An agency action may be considered " arbitrary and capricious" when the agency's explanation for its decision runs so counter to the evidence before the agency that it could not be regarded as the product of agency expertise. Motor Vehicle Manuafacturers Assoc. V State Farm Mutual Auto Ins 463 US 29, 77 L.Ed.2d 443, 103 S. Ct.2856. The Supreme Court will reverse factual conclusions of the agency only when they are " completely bereft of competent evidentiary support in the record as this case is.

Robert Eden, M.D. (Eden) a pediatrician (in training when he relieved Mills at 5 pm to take call for St Joseph Hospital's Pediatric Unit about once monthly) had no formal training in psychiatry. McIntyre stated that courts allow great leeway when physicians testify outside their area of expertise.

Yet here we have Eden testifying he had no knowledge about whether there were hydrocarbons in Mills' office and that he had only seen the term "sick building syndrome" ONCE in the news. He admits to only having the complaint of the mother and repeatedly testified, " assuming all the information given me to be true." How could an "expert" in such a serious matter as the deprivation of another's livelihood base his conclusions only on what one mother alleges? Well it is done all the time when so called "experts" are hired to destroy another doctor. When Eden was asked how many patients had transferred to his practice from that of Mills (after her summary suspension), he testified maybe one or two but they went to his partners. This is a misrepresentation for over 14 of Mills' patients had release forms signed to transfer medical records to Eden. Prior to this Mills had only one request for transfer of a patient to Eden in all her years of practice. In any Daubert hearing in these United States Eden would not have been allowed to testify- he was not an expert regarding the issues to which he was questioned inclusive of what to do if 1) a patient refused to sign a confidential health care release form- he testified that he would violate Federal HPPA laws and RIGL and release the records without signatures of the parents, 2) did not know what Williams syndrome was and only read a small paragraph about it produced by Mills' counsel- not aq sina qua non of everything there is to know about the syndrome as microcephaly 3) he could not put together failure to thrive with microcephaly which does include Williams 4) had no idea if Mills' building had hydrocarbons 5) had never been faced with a situation in which he could not examine and file a PRE if he suspected abuse in a family 6) did not know what took place at the office regarding the signing of a camp and day care form (again only what the mother wrote in her complaint).

The rules of evidence in Administrative Procedure before state agencies follow those same rules as for State courts. To allow a physician to testify to any matter for which he is not even knowledgable would not survive in any Daubert hearing nor in any state court. In contested cases as noted in Section (h)(2) of

the RI Rules and Regulations (May 1997) the rules of evidence as applied in the RI Superior Courts of the state shall govern.

OTHER VIOLATIONS

APPENDIX B-13

TENURE AND AUTHORITY

RIGL 5-37 5.2 (d) " No member of the Board who participates in the investigation may participate in any subsequent hearing or action taken by the remainder of the Board (to preclude any exercise of influence over the Hearing Panel)
RIGL 5-37-1.1 (6) "The Board is to be composed of (6) licensed physicians, (5) public members, one of whom shall be an attorney with experience as plaintiff's counsel in the presentation and prosecution of medical malpractice, the other a member of the general public not associated with the medical field who shall have attained the age of at least (60) years." It further reads, "... in the absence of the chairperson (as was the case in RI for more than two years), THE BOARD SHALL ELECT FROM ITS MEMBERS a vice-chairperson who shall exercise all powers of the chairperson who shall serve for one year or until their successors are appointed...."

McIntyre held position of Chief Officer for more than two years when State of RI was "unable" to fill the position. McIntyre now disputed "title" of board member(reply brief pg 3 in Mills vs Nolan). His affidavit in this case reads, " I am.....Counsel for the Department of Health. At times relevant hereto, I was ....Counsel for the Board....and was a member of the Investigating Committee of same in regard to suspension of.....Mills." (EXHIBIT E 1 pg 91a). He has clearly admitted to his position of investigating member. Whether investigating member by title or not, he acted as investigator in going to doctors' offices seeking information on Mills, in aiding the two mothers in writing their complaints. Whether he was lawyer " on the board," in title, he made the final decisions

to not allow Mills any witnesses or supporting evidence except the one handwritten complaint of Cinquegrana-her original unaltered complaint letter, giving his "permission.".

When Justice Silverstein asked if McIntyre was the lawyer for the board as well as on the board he did not answer. The Justice had to repeat the question, asking, "do you understand the question," to which he and Attorney Turilli answered, " yes, I guess I am." This being said, McIntyre has held the position of counsel on/for the board for more than 12 years. (see Exhibit A)

The question as to whether he is or not a "member of the board" counsel "on the board," or "for the board," is muddled even further when one reads the following documents:

State of Rhode Island And Providence Plantations

Inter-Office Memo

Date 10/13/98

The File

Board of Medical Licensure and Discipline

C98-187 Geraldine Mills, M.D.

Notes:

A special meeting of Investigating Committee I was held in order to review the status of Dr Mills.....It was moved by Dr Fanning seconded by Mrs Coughlin that Dr Mills' license to practice be suspended.

Committee Members:
Paul Sapir,M.D.
Stephen Fanning, D.O.
Margaret Coughlin

Staff Members:
Bruce W. McIntyre

This states Bruce W. McIntyre is a "staff member " of the board. Many such documents are addressed in the same manner.

As above, the board shall elect the person to serve when there is no chairperson and the person is chosen from the board members. Since McIntyre was chosen, he had to be a board member. If not a board member then he was in violation of this section of RIGL.

When McIntyre represented Dr Toselli at his deposition, acted as prosecuting counsel at the hearing, made all the decisions as to dates of hearing, wrote the witness lists, signed the affidavits as Notary public for the board's witnesses he was acting for and on the board as counsel.

In reality regardless of his title, he was acting "as the board." When he answered Mills' counsel regarding her being seen by a Massachusetts psychiatrist, this evaluation was to have been reviewed by the board. McIntyre never answered counsel's letter questioning if the board was ever given the evaluation. McIntyre was the one stating that Dr Rogoff was not competent. This information did not come from " the board."

When the NPDB was reported to on October 7, 2002 with the information that Mills has a "mental disorder," it was not Anthony Pitassi who did this on his own initiative but it was initiated by McIntyre. As legal counsel for the board, Department of Health and as Acting Chief Officer, McIntyre has all the power necessary to make all the decisions and to abuse his powers at his official whim.

Other issues of concern were the tenure of Sally Jane Thibodeau, on the hearing panel. She was a board member in 1993 and still a member of the board in 2000. The statute reads, "...no member shall be appointed for more than two (2) consecutive full terms." These are three year terms. Though her limits for tenure were completed, she remained. However, the tenure of Dr Stanley Stutz was alleged ended so that he could not make the final decision on Mills' license- even though he was present for the entire hearing, asking the questions. The task of making the decision was given to a Dr Hall who has never even met or seen Mills. It is believed that Thibodeau's tenure was much longer than that of Dr Stutz. It is also prejudicial for one to not see witnesses. It would be as if a jury had to make a

decision on an individual without ever having to be present at the trial.

MCINTYRE AS WITNESS TO EVENTS

McIntyre has stated that he was NEVER a witness at the hearing. This is obvious. The motion of December 2, 1999 Motion to Disqualify was denied on December 8, 1999. It was submitted by Mills to remove McIntyre as counsel so that he could be a witness was denied. Motion reads, " Respondent by and through her counsel, hereby moves to disqualify Attorney Bruce McIntyre from appearing before and representing the Board ....In support thereof,..... McIntyre has relevant and material evidence which impacts upon the adjudication of this matter and that his continued representation of the Board prevents the Respondent from having a fair and impartial hearing." /s/ Paul Foster, #1386 McIntyre was privy to all events that noone else was. Mills NEVER stated that he was a witness at the hearing. He did repeatedly inject his own theories, fabrications and false allegations during the prosecution of the case and unfairly tainted the proceedings by making accusatory statements followed by refusing Mills the right to submit evidence to support her answers.

One simple example was that of McIntyre stating, " You put Yale and Brown on your CV didn't you." Mills answered "no" but then was rebuffed when she attempted to submit it. Even though it was part of the RIH application, it was not on the record below. McIntyre wanted to plant a seed in the minds of the hearing panel members that Mills allegedly "lied" on her CV on her RIH application. Again Mills cites her father's quote, " a liar is worse than a thief." This misconduct on the part of McIntyre is not acceptable and must not be condoned. For this reason alone this writ of certiorari should be granted- to overturn a grave injustice. If McIntyre is allowed to succeed at this egregious act, he will attempt the same actions with another doctor's life and this should not be allowed.

In objection to the motion to disqualify they cited that 1)

the moving party must possess information that is unobtainable elsewhere, 2) or that his testimony would be prejudicial to the testifying attorney's client and 3) is a material witness. McIntyre was the only one who knew about the conversation that he had with Mills on December 2, 1998 wherein he threatened Mills with suspension, with Mills on October 17, 1996, and on October 9, 1998.

McIntyre was a witness to the events with Karen Stanley day care director, when he told her that "something is in the works for Mills to lose her license." They responded that Mills "did not demonstrate the existence of any of the foregoing criteria" completing ignoring that much of the case against Mills came from the personal conversations between Mills and McIntyre as well as his aiding the two witness mothers in the writing of their complaints.

APPENDIX B-14

REGULATIONS INSTITUTION AND NOTICE OF HEARING

Mills was given a hearing date of October 29, 1999 which would follow the regulations and RIGL of ten days from the date of suspension without a hearing for reason of "immediate danger to the public." However, the laws were violated because it further states that this date be given WITH a specification of charges and witness lists. This did not happen. These were not made available to Mills within the tens days so she could not appear at a hearing not knowing the charges or the adversarial witnesses. Also Mills was not represented by counsel at that time and McIntyre was fully aware of that for it is written in the July 11,2001 decision as, " she then dismissed counsel." It was mutually agreed upon by McIntyre and Counsel Tramonti and Counsel Mills at the meeting called by McIntyre to "make his deal," that an extension of time would be allowed. Another hearing date of November 5, 1999 was given by McIntyre but again without a witness list or specification of charges. The

completed witness list was not made by McIntyre until January 24, 2000. How was Mills to have a fair, just, and unbiased hearing before the Medical board within ten days as per law without this information? Certainly as McIntyre repeatedly is quoted, " we had this case all sewn up..." and this would have proven true had Mills allowed him to abuse his powers in this job description which is to "protect the public."

In helping a "friend" McIntyre has wasted tax payers monies and state official time in his egregious attack on this Appellant. He has not "protected the public." What he has done is protect a child abuse investigator and his family from a complete and thorough investigation as would be done on any other citizen with the facts as they stand; protected a mother that may have failed to care for her infant by depriving her of the required nutritional needs to allow her brain to grow as standard for her age. These are unconscienable acts.

This is in violation of RIGL 5-37-8 and Regulation 14110 001- 9 to be denied a witness list and specification of charges within ten day of receipt of notice of hearing. (Witness list received after January 24, 2000 and specification of charges on November 22, 1999-17 days after hearing date set for November 5 and 2[illegible] days after the October 29, 1999 date first scheduled. This violates Regulations 14 110 001- 9. In further violation of RIGL 5-37-8 is Appellant's right too maintain an unrestricted medical license until a hearing as Appellant had "voluntarily ceased seeing patients," when McIntyre told her to and was therefore not an "immediate danger to the public."

The instant case is not a "hybrid" but is a complete travesty and deprivation of one's constitutional rights to due process and equal protection of the law-a deprivation of one's livelihood for "official whim," not for injury to anyone or for any misconduct.

Regulation 14 110-001- 8 states, " the hearing shall be no more than 60 days and no less than 30 days after service of charges upon the physician and notice of hearing shall INCLUDE the list of witnesses and specify the charges..."

Not at any time did the hearing follow the Board's own rules and regulations. A December 2nd 1999 hearing date was given as well as the October 29th and November 5th dates. Mills was not allowed the 20 days to answer the specification of charges prior to the date of December 2nd (the hearing date set 10 days after the specification of charges was given on November 22, 1999)

In summation regarding the date of hearing: It was in violation of Mills' constitutional rights to deprive her of the due process and equal protection of the law in not affording her a hearing in accordance with the RIGL 5-37-8 Grounds for discipline without hearing as " The Director may temporarily suspend the license of a physician.....without a hearing...In the event that the director suspends, temporarily, the license....without a hearing, a hearing by the board MUST BE HELD WITHIN TEN (10) DAYS AFTER SUCH SUSPENSION HAS OCCURRED." pg 442 Businesses and Professions

Mills got her hearing date ten (10) MONTHS later and it lasted five months for two witness families and one expert witness with no supporting evidence or witnesses allowed Mills. Again in violation of Mills' due process and equal protection of law.

APPENDIX B-15

THE " CONSENT AGREEMENT"

Defendants state that Appellant "altered" the consent agreement with "unacceptable language," so that it did not read as agreed upon in the investigating meeting of September 22, 1999. Appellant stated the consent agreement did not "read as promised." Defendants wrote that Mills "at all times refused to get the evaluation." This was again a misstatement and misrepresentation by McIntyre.

Mills added to the consent agreement that she could not see the "evaluator" for she had not been given the list of names of whom to see for 11 months. McIntyre later stipulated that he did not give the list of names to Mills until September 21, 1999. How therefore, can McIntyre and/or the board write a consent agreement stating that Mills "at all times refused to get the evaluation," if she did not have the names so that she could know who to go to? McIntyre sent Mills a letter on September 28, 1998 stating she needed to be "evaluated." It did not specify what type of evaluation- psychiatric or medical or both. Not until September 21, 1999, with a demand by Mills that she get this list or she will dismiss her counsel, was the list forwarded to her.

McIntyre gives many reasons for not giving Mills this "list " of names as required by RIGL as 1) she refused to get any evaluation, she refused at all times to be evaluated; 2) there is no regulation as to when the board must give the names of the evaluators; and 3) since she refused at all times we did not give her the names.

Mills did not refuse the evaluation. She scheduled the evaluation as soon as she received the list of names. In fact, McIntyre knew Mills was not refusing the evaluation because on June 30, 1999, he gave one name to Mills-that of Dr Jeffrey Hunt. Mills contacted him but he said he was a primarily a child psychiatrist. Yet McIntyre wrote in his affidavit March 15, 2001 @ # 5, " Also, Mills through counsel, objected to the Order for a psychiatric examination." Except for the letter of September 28,1998 stating only "evaluation," Mills did not receive any other order to have a "psychiatric exam," nor any lists of names medical or psychiatric. From June 30, 1999 until September 21, 1999 Mills contacted her counsel daily for the list of names to no avail.

If McIntyre's statement, " since she refused at all times we did not give her the names," is a valid one then how did he give Mills ONE NAME? Why did he wait almost ONE YEAR before giving her the list if he was so concerned about her having a "mental disorder?"

When Mills was on her way to the evaluation she was

told by Dr Ronald Stewart that she had already been "suspended," the day before. Mills was "suspended" less than 4 weeks from the date of receipt of the list of names she had been forced to wait 11 months for.

If Mills "refused at all times to be evaluated," it does not follow that she would see two Psychiatrists during the week of October 11, 1999, take an MMPI prior to the close of her hearing, as advised by her counsel to have a standardized report for the board, and proceed to be evaluated voluntarily for the State of Florida, and again in response to McIntyre's letter of March 29, 2002 wherein he requested Mills be seen in Massachusetts. The cost out of pocket to Mills for these evaluations is $8000.00.

Mills was in full agreement to be evaluated despite the lack of "probable cause" and despite the false allegations made against her. Mills has seen 6 mental health professionals in 4 states in order to exonerate her from this horrific denigration of her reputation, character, and the destruction and taking of her livelihood and property interest.

The DELAY in giving Mills this list of names was simply another means to delay an inevitable conclusion that was as McIntyre himself told the Day care Director Karen Stanley, "Something is in the works for Mills to lose her license."

RIGL 5-37-2.1 (10) regarding consent orders was violated by McIntyre/medical board.

After Mills learned of McIntyre's correspondence with Dr Cullen and more significantly after McIntyre most egregiously denigrated the expertise of Dr Jerome Rogoff and flagrantly denied ever having "pre-approved" him to see Mills, it is no wonder that Mills would not have any trust and faith left for the State of Rhode Island's policing of its Medical Board (a board that is clearly "run" by McIntyre at his "official whim.")

APPENDIX B-16

VOLUNTARY WITHDRAWAL

Defendant state in pre briefing statement that Milton Hamolsky, M.D. (then Chief Administrative Officer) did not fully agree to Mills' voluntary withdrawal of her application for Pediatric privileges to RI Hospital. Not only did he agree, he advised it strongly. He told Mills, " I have cleaned up here a lot but have a long way to go." He furthered, " Do you think it could be because you are Jewish?" This was his response to Mills' question as to why she was so maligned and discriminated against at the hearing for privileges at RI Hospital. Mills had personally met with Hamolsky on one other occasion in January 1993 when Toselli inappropriately let Mills know her contract as employee at St Joseph Hospital as House Staff Officer, would not be renewed (Mills had requested that she not have to work a 48 hour shift directly following a 36 hour one). Hamolsky told Mills to "go build up a good practice and someday you will be on staff at RI Hospital." Mills built that good practice from one patient to over 700 families, doing call for thousands others. She did this not with " horrendous abuse of children," as were the words of Joseph Miller and Bruce McIntyre.

Hamolsky was fully aware of the discrimination against Mills and was made aware at the time it took place. McIntyre wrote to Dr Cullen on October 1, 1999, "we became aware THIS YEAR of the difficulties Mills had in getting privileges to a local hospital." This is McIntyre's misrepresentation again. The medical board and Dr Hamolsky were fully aware in January 1993 of the difficulties with Dr Toselli and the medical board and Dr Hamolsky were fully aware in March 1994, at the time of the RI Hospital hearing, but most significantly was the date of July 26, 1994. On this date, Mills met personally with Hamolsky and they discussed Mills' voluntary withdrawal of her application and not taking her appeal on August 8, 1994. Mills "walked away" from her appeal because she knew she was not going to " win at RI Hospital- it was discrimination." Toselli

thereafter approved for Mills to be on full active staff at St Joseph every year. Was it as he testified in deposition. " I feared a law suit against St Joseph Hospital," or was it to maintain the Pediatric Unit (where Toselli did not admit his own private patients) at St Joseph Hospital and prevent Mills from admitting her private patients at RI Hospital?

McIntyre states elsewhere that it was known to him that Mills had difficulty getting staff privileges at RI Hospital.....VI

APPENDIX B-17

DISABILITY ACT

In violation of Mills' rights is alleging her to have practiced with "unprofessional conduct if the cause of the conduct is related to a DISABILITY." This is in complete violation of RIGL 5-37-2.0(10) Businesses and Professions @ pg 86. It reads as, " To require a licensee to undergo a physical or psychiatric examination by a physician acceptable to the board, from a list provided to the licensee by the board, if probable cause exists to believe that allegations of misconduct against a licensee are caused by an impairment which has directly affected the ability of the licensee to conduct his/her practice professionally. The investigating committee and the board may not discriminate on the basis of disability .....nor subject qualified individuals with disabilities to any discrimination in it complaint procedure. All decisions of the investigating committee and the board shall be on the allegation of unprofessional conduct and NOT DUE TO PROBABLE CAUSE OF THE CONDUCT BEING RELATED TO THE DISABILITY OF THE LICENSEE." Rather than investigate the contamination in Appellant's building(s) the Board/McIntyre chose to consider it "delusion" on the part of Mills and then to create their case against her based on their own theory (doing so would require that they ignore all supporting evidence and witnesses except that of their own).

This also violates the disabilities act (ADA). Any levels

of contamination with hydrocarbons are not safe for any individual and each individual tolerates different levels. It becomes a "disability" when the individual level is met.

The Board/McIntyre allege that Mills has acted "unprofessionally" due to some "impairment." Mills could not use her offices due to an underground storage tank leak from Speedy Oil a neighboring gas station, a Chromium oxide xray tank fluid overflow from Dentist Elisa Liberto, formaldehyde and chlordane in a home pesticide treated and for years a hairdressing salon, and a toxic VOC laden carpet and adhesive placed on a cement foundation where many similar cases have shown a problem with hydrolysis. These environmental situations were not due to any fault of her own but she was a victim to the circumstances. She acted in response to the events and her patients fully accepted her doing house calls to continue their care uninterrupted. Mills did not ABANDON her patients.

Is it a disability to not be able to tolerate toxins at high levels of ? A 200 lb man may be able to tolerate a higher level of toxins than Mills could. In fact, Mills' secretary only experienced dizziness as she described it- "like I had three glasses of wine." Tina felt this way after several hours. However, Mills could tolerate only minutes in that office because there was a level of formaldehyde at 0.3 ppm. The building so adversely affected by the underground gasoline leak, had levels of 90.6 ppm gasoline in the basement. The State of RI DEM states a level of less than 12 is tolerated by healthy adults.

The only patient complainant, mother Joyce Brown stated at pg 21 of her testimony, " Mills was bizarre in saying that her office had benzene vapors in it and that she was concerned about benzene ...."Brown was the only parent who refused a house call visit and the only parent who adamantly refused to reschedule her visit of July 30, 1999 (when Mills learned she could no longer use the office on July 28, 1999- having the 29th off call). (see Appendix B-23) Peter Sullivan of DEM State of RI stated that he was "overcome with the gasoline vapors when he entered the office in late February 1999.

The alleged "unprofessional conduct" was action taken

to not abandon the needs of her patients. Brown, the only complainant regarding the contamination of the buildings, allegedly needed forms signed and adamantly refused to allow a house call or reschedule to have this done (see Federal and State laws regarding tape recording of parties without their consent)

APPENDIX B-18

CONFIDENTIALITY UNTIL HEARING COMPLETED

Mills was denied her right to have a hearing PRIOR TO the making public all decisions. McIntyre/board publicized in the news, reported to the Data Bank, contacted patients at their private homes, notified all insurance companies that Mills was "Indefinitely Suspended" prior to her even having a hearing date set.

Mills was denied her right to a full and fair hearing - a hearing was not prejudiced by the publishing of a notice prior to a hearing process being completed which is in violation of the provisions of RIGL 38-2-2 and Rules and Regulations 14 110 001-23f of the RI Medical Board Notice to the Physician

Under the rules of Public Dissemination it reads, " In the event of a final determination of "unprofessional conduct," either by a signed consent order, or by the final judgment of the Hearing Committee-the board policy is to disseminate the findings and attendant sanction(s) by publication in the legal notices of the newspapers, notification of all health facilities in Rhode Island and the Federation of State Medical Boards (Texas) and the National Practitioner Data Bank."

Again in violation of Mills' due process and equal protection of law this was done prior to the final determination of the Hearing Committee- far earlier, in fact within just days of the temporary suspension as follows:

November 1, 1999

Dear Member: Our records indicate that Dr Geraldine Mills was selected as a Primary Care Physician for a member of your

family. The Rhode Island Department of Health has notified us that the medical license of Geraldine Mills was SUSPENDED effective October 19, 1999.
Although there are physicians covering her practice we are unable to assure you that access to medical care will not be affected. You may wish to select a new Primary Care Physician in order to continue to receive maximum benefits. If so please call.....
Sincerely, /s/ Stephanie L. Ledoux Director Customer Relations Blue Chip a wholly owned subsidiary of Blue Cross & Blue Shield of Rhode Island.

Foster parent Kelly Messier called Mills to inform her of this letter as did thirty other parents on or about November 1, 1999. This indicates that the board/McIntye notified this insurance company prior to or on November 1, 1999. This violated the state's own regulations. Even more egregious was the number Messier called connected her to the office of Dr Robert Eden (expert witness for the board) who testified that he only received 2 patients transferring from Mills' practice (at least 14 patients transferred to his office in just weeks following the distribution of this notice).

Doctors in Mills' call group had been seeing Mills' patients for 5 years without any reduction in their benefits because these doctors were also in the plan. Just as Mills covered for them during their time out of work for various reasons, they were fully capable of covering her practice. This was clearly a ploy to dismantle Mills' practice. The other insurance companies were notified on a daily basis but all prior to Mills having a hearing.

November 8, 1999

Providence Journal News Notice of Indefinite Suspension of medical license of Geraldine Mills, M.D.

APPENDIX B- 19

DELAYS TO GATHER FURTHER DISCOVERY

Regulation Section 10 (d) " there is to be no delay in the hearing to further gather discovery...." This was exactly what McIntyre did in order to determine how to answer to the testimony of Mills given on August 23, 2000. (Example: the issue of Bridgeport Medical Records of the NEAR SIDS event on Sarah Brown- had Mills not mentioned that she learned on November 11, 1999 that these records were still at Bridgeport Hospital not being "LOST IN THE NAVY" as the mother told all, the issue may not have been brought up at all for McIntyre did not submit the mother's 7 page URGENT marked document [addressed to him personally] dated September 29, 1999; the neck injury issue [parents's story being that it took place during a chaperoned school visit to an amusement park which differs from the school's assistant superintendent Richard Rouleoux who wrote to Mills that there were no trips to an amusement park and therefore none chaperoned by the school])

DELAYS BY MCINTYRE

McIntyre "delayed" in responding to letters from Mills' counsel in order to postpone the events of this case and to place Mills in financial ruin. A temporary suspension of October 19, 1999 without a hearing until August 23, 2000 lasting until December 7, 2000 (would have lasted longer if Mills did not contact Foster and demand an end to the "paper trail" created between himself and McIntyre. They labeled it themselves as "harassment" of each other in the way they kept delaying each and every event. McIntyre at times refused to answer Mills' counsel for two months. (See Exhibit on Delays)
Mills even with counsel was unable to take any legal action while "temporarily suspended " (though everyone notified it was an indefinite full suspension prior to a hearing) for her being deprived of her livelihood. The Defendants repeatedly stated, "

Mills has to exhaust her administrative remedies." As this case unfolded, Mills did not know her rights as to having witnesses and supporting evidence and she did not know any Administrative Procedure Law. She hired counsel who claimed to know the APA but when his brief was submitted (after the date due by law) it was obvious he had no knowledge in the field. He had used the legal term of "clear and convincing evidence," where under APA it is " preponderance of evidence." One reading of the APA would inform anyone of this.

Mills' counsel told her that McIntyre had to "authorize" each and every piece of supporting evidence. When Mills saw this action firsthand on December 7, 2000 (with AHO Hobson not involved in the confrontation to allow Mills to submit the original handwritten complaint of Cinquegrana- which by law is to be on the record) she was fully aware that this was NEVER going to be a fair and just process. Mills held out hope that the judicial system in Rhode Island would not support such an abuse of power particularly on the part of McIntyre. Mills now knows this too was just a naive belief that justice would prevail in R.I. On November 6, 2003, Mills was informed by Dr Randell Alexander that if the NEAR SIDS records subpeona was denied then the court system in R.I. was not going to protect Mills and Mills would be denied her license appeal. He was absolutely correct. He is the same physician who stated after reviewing the Brown medical charts, " it is not out of line " for Mills to have made the call to DCYF.

Having counsel to represent her for years was a very heavy financial burden. Mills had been primarily a welfare, medical assistance physician. This placed her in the destitute that she is now in. She is told she cannot obtain a public defender because there are no criminal charges. She has spent $8000.00 on evaluations to learn that she has no mental illness, spent more than $100.000.00 in legal fees to protect her rights with her father now as he states, " soon unable to afford their burial."

Because Mills has been slandered as having a " mental disorder," she has been denied gainful employment by myriads of employers. This is unconstitutional and full deprivation of

ones' rights to due process and equal protection of the law.

APPENDIX B- 20

MAILING

Regulation 14 110 001 Rule 2b

The Administrative Procedure Act (APA) to which all state agencies must abide reads as, " papers deposited in the US mail shall be deemed filed on the date of receipt by the department." The reply brief of counsel Paul Foster did not arrive on January 8, 2001 (date of receipt by medical board was January 11, 2001) whereby the reply brief submitted by Mills on January 8, 2001 (hand delivered and signed for by Nikki Deary) should have been placed on the record below. In violation, the board/McIntyre placed the brief of Foster on the record with McIntyre stating that they "often give great leeway" in dates of mailing. (Inconsistent application of law by McIntyre-see below) Mills dismissed counsel Foster because he had an agreement with Mills to review the briefs they each prepared and to submit a mutually acceptable final product. Foster refused to answer all calls from Mills for two weeks until the morning after the date on which the brief was due. Mills had no knowledge as to whether he would be submitting a brief and the medical board had not heard from him at all on the 8th.

Mills notified the board (AHO-Hobson) that she had dismissed counsel on January 9th 2001 by phone and in writing. Defendant stated Mills "proferred her own brief" again creating a seemingly "unprofessional" picture that she dismissed her counsel to submit her own statement. This again is McIntyre's misstatement and misrepresentation of the facts. Foster has been censured by the highest RI State court for misconduct involving several other cases which he had during the same time as Mills' case. Disciplinary Council counsel Barbara Margolis informed Mills that Foster had many calls to her office regarding his refusal to answer calls from clients. For 14 days Mills was unable to reach him and did not want the date for which her brief was due to pass without the board in receipt of something. Foster

filed his brief outside the time frame allowed by the medical board. Again in violation of their own statutes, the board accepted a brief not in accordance with APA. Then most egregiously pose that this was " unprofessional" for Mills to "proffer her own." What if Mills did not submit hers? The medical board would have stated the date is past and you are not allowed to submit any. The board only accepted Foster's brief out of time because Mills had delivered hers on the date set by the board.

APPENDIX B-21

IMPROPER NOTICE
Regulation Section 13 b

McIntyre sent his letter dated September 25, 1998 to Mills on September 28, 1998. Mills received it September 29, 1998. However, at the bottom of the letter he placed a certification slip with the typed in date of the 25th.(not by US postage or mail)This letter was clearly not mailed on the 25th.

A letter dated December 10, 1999 was not sent until December 16, 1999 and it had a December 15, 1999 letter to Mills' former counsel attached to it. McIntyre stated he sent it the 10th of December but clearly a letter dated December 15th could not be attached to a letter sent on the 10th of December.

In Defendant's objection to motion for writ of mandamus the Defendant writes, "....respectfully object to Plaintiff's ...Motion for Writ....which seeks to compel a decision by the Hearing Panel of the Board of Medical Licensure and Discipline on Mills' motion to Re-Open Proceedings for Introduction of Supplementary and Documentary Testimonial Evidence on the ground that the administrative hearing panel already issued a decision thereon. Because Mills' motion is now moot Defendants respectfully request that it be denied." (See Interim Order Appendix A) This was submitted by Anne T. Turilli for Attorney General Sheldon Whitehouse of R.I. on May 3, 2001.

Appellant's motion was not docketed until May 4, 2001. When Mills submitted her motion to the court on April 20, 2001

with a copy to opposing counsel she did not file an omnibus form. Therefore her motion was not docketed at that time. The Defendant's motion for objection was done so prior to the motion even existing which by law renders their objection moot. Not only did the Defendant err in this act but also adamantly refused to make a decision on Appellant's request for re-opening for all supporting evidence and witnesses - a motion submitted on January 30, 2001. Had Mills not brought the instant case, she would not have answers to her temporary suspension of two years nor her requests for re-opening for evidence.

Each and every act by McIntyre and signed by Sally Jane Thibodeau were done in response to steps taken by Mills to protect her constitutional rights. Mills received the decision of the board regarding re-opening for evidence when they objected to her writ on May 3rd (postage stamped May 3rd PM) with the decision attached to their objection. Mills "forced the hand of the board" to answer the motion to re-open for evidence so that they could object on the grounds that the request was now moot. However, in their rush to do so, they answered to a motion that was not even docketed as yet (docketed May 4, 2001).

Again this was improper notice, improper filing of a motion. Counsel for Mills in her Environmental case, agreed to help Mills with her license issues until she found new counsel. He did not receive an answer to the request to re-open for evidence. Yet the Interim Order was certified May 2nd to Counsel D'Ambrosio's address. He informed Mills that after a meeting at the board March 28, 2001 (for which Mills returned from out of state to attend but was later told the meeting ended before the time that she was told to appear), it was decided that Mills would be given until April to prepare her supporting evidence. Obviously Mills had it prepared since July of 2000 but another hearing was not allowed to present it.

Regulation section 13 b was also violated -see pg 47a Rules 8 and 9 regarding notice for hearing, dates of hearing set without witness list, specification of charges or adversarial discover(misrepresentations by McIntyre/board with improper notice).

APPENDIX B-22

ADVISE OF PHYSICIANS HEALTH COMMITTEE

RIGL 5-37 2.0 (11) Appellant was denied the right to hear advice of the availability of the Physicians Health Committee of the Rhode Island Medical Society prior to the board summarily suspending her.

Businesses and Professions 5-37-2.0 (11) @ pg 86 it reads, " To advise the licensee of the availability of the physicians health committee of the Rhode Island medical society and in appropriate instances to refer licensees to that committee for evaluation by appropriate medical professionals."

Mills was not so advised at any time prior to receipt of the letter from McIntyre dated September 25, 1998 for her to be evaluated nor any time after during the years 1998- 2002. Mills did not know of these resources until she was seen by Florida's Resource Network and then questioned if R.I. had such a resource. The first "advisement" from McIntyre was on her "reinstatement" dated August 22, 2002 which read that Mills would, " 1) enter a three (3) year contract with the Physician's Health Committee of Rhode Island Medical Society ("the committee") and 2) Petitioner must comply with each and every recommendation and requirement of the Committee including obtaining an evaluation and submitting to treatment."

Mills represented by counsel at that time, agreed even after her reinstatement was denied, to go to the committee on October 9, 2002 to review the 6 evaluations she had to date and discuss with them options to resolve the contested case. On October 7, 2002 McIntyre/Pitassi reported to the NPDB that Mills has a " mental disorder." Mills became aware shortly prior to October 9th that two psychiatrists from RI Hospital/Life Span were the only physicians that would be present at this meeting. Certainly a conflict of interest in that RI Hospital through Cronan/Toselli and even Eden had all slandered Mills as

"psychotic," or "paranoid schizophrenia." Eden did seem to retract this statement but certainly it is hard to "unring a bell."

Mills requested that this reinstatement be more precisely worded as, " if the committee after meeting and reviewing the evaluations done to date, find it necessary that another evaluation be done then Mills will submit to one. If the evaluation then finds it necessary that Mills be treated then she would agree to that." However, her request was denied; she signed the agreement anyway on August 22nd 2002. Even with the changes not made to the reinstatement, McIntyre told Mills' counsel it was not accepted by the board, in fact denied by the board on September 11, 2002 during a meeting while Director Nolan was out of state.

APPENDIX B-23

McINTYRE AS WITNESS

The motion to disqualify dated December 2, 1999 by Mills' counsel reads, " ...hereby moves to disqualify Attorney Bruce McIntyre from appearing before and representing the Board in the within proceedings. In support thereof, Respondent states that ...McIntyre has relevant and material evidence which impacts upon the adjudication of this matter and that his continued representation of the Board prevents the Respondent from having a fair and impartial hearing." /s/ Paul Foster

The board responded in part as, "....the moving party must establish that the attorney is a material witness; possesses information that is unobtainable elsewhere; or that his/her testimony would be prejudicial to the testifying attorney's client." They furthered, "....the respondent has not demonstrated the existence of any of the foregoing criteria.....therefore the motion to disqualify Mr McIntyre is hereby denied."

Mills' counsel in letter dated November 23, 1999 to McIntyre it reads in part, "... Finally, I will again address the fact that I will request that you appear in these proceedings as a witness. I am not making this request for any reason other than

the fact that you advised me that you are in possession of certain information that is directly relevant to the matters before the Board. In that you will very likely be called as a witness, I will again ask you to consider the propriety of your acting as counsel to the Board in this matter...." /s/ Paul Foster

Not only does it appear that McIntyre told Mills' counsel that he had "something directly relevant, in his possession," but he made a series of phone calls to Mills' office from October 1996 until December 2, 1998 which can only be classified as "harassment and threatening."

These begin with October 17, 1996 (pg 4 - 2 year old girl injured which Mills was never informed about) when he contacted Mills personally, at her office, and told her, "let's get a whole investigating committee in against you."

On January 9, 1998, Jaqueline Landry a secretary in his office called Mills at her home. She told Mills, " your license has been suspended." Mills thought the call was about her driver's license and nearly fainted hearing it was about her medical license (signing her renewal application check with " G" as she always has signed it).

On September 28, 1998, he contacted Mills at her office telling her, " you have received my letter." Mills said she had not received any letter, but he persisted again and again stating that she did receive his letter (intimating she was being untruthful to him). The letter he dated September 25, 1998 was mailed after that call, on the 28th; Mills received it the 29th.

McIntyre contacted Mills' brother Attorney Mills in September, telling him, " I always win at hearings and the courts give me great leeway."

October, 1, 1998 Mills and her brother speak to Karen Stanley, Director of C.H.I.L.D.,Inc because Mills' patients were calling her office September 30th leaving messages that the day care employees told them all to find new pediatricians. In those conversations Stanley stated, " I spoke to McIntyre and he said there is something in the works for you (Dr Mills) to lose your license."

October 9, 1998, McIntyre called Mills at her office to

tell her, " you are aggressive, cannot handle stress, and you are going to be in trouble; I am going to get you."

December 2, 1998 McIntyre calls Mills to her office and tells her, " get those records to Dr Newstead's office by 4 pm today or you are suspended." Mills explained she had written to Dr Newstead the day before to let him know she needed the parents' signatures to release the full medical charts. She had already sent Dr Newstead, the parents, and day care all their shot records. It was during this conversation that McIntyre obtained information from Mills that he could fabricate, alter, and make a mockery of Mills with.

[of interest is Dr Newstead did not send Mills records on patient G.R. a one year old girl, even though the mother signed a release form for the records on January 21, 1997. Only after repeated requests by phone to his office was Mills able to obtain these records; they were mailed to her on April 23, 1997 for receipt April 24, 1997; he is the physician who allegedly told the Cinquegrana family to contact the board by written complaint] Dr Newstead never answered the letter of December 1, 1998 requesting the parents' signatures.

Mills told McIntyre that the records were xeroxed and awaiting the signatures but were at her Massachusetts home on December 2, 1998 (Norcal Ins Co states that records that may be used in legal cases may be kept separate from those in the office for safekeeping) She asked if she could get them on her day off the very next day. He told her she would be suspended and had until 4 pm. Mills explained she would have to cancel some patients to get them (two that afternoon).

McIntyre wrote to the psychiatrist that Mills had chosen from the list that was not given to her for one year.

October 1, 1999

Leah Oseas Cullen, M.D.

Re: Geraldine Mills, M.D.

Dear Dr Cullen:

Thank you for agreeing to evaluate Dr Geraldine Mills... Dr Mills can obtain a copy of this report from the Board only.... Briefly, Dr Mills came to the attention of the Board when she

experienced difficulty obtaining hospital privileges at Rhode Island Hospital. As you know RI Hospital has an open staff for pediatricians. To our knowledge Dr Mills is the only pediatrician not granted staff privileges..... It became obvious that Dr Mills was struggling to justify the fact that : 1) Her medical records were being kept in an undisclosed location near Boston...."
3) When a patient requests a record, it takes Mills all day ato obtain and copy the record and she then drives the record, personally to the other pediatrician's office. This results in the cancellation of patients' care for the day."

All medical records were kept at the office except for those of patients that had left the practice. Those were kept in her home in Massachusetts as were the Cinquegrana charts. This is obviously not some "undisclosed location." That was McIntyre's fabrication. He was a witness to, " information that was unobtainable elsewhere."

McIntyre threatened Mills with suspension that day of December 2, 1998 if she did not get the record to Newstead's office by 4 pm. Mills certainly could not mail it. McIntyre had called at 10:30 AM so the only possible was to deliver it personally. Noone else had access to Mills' home in Massachusetts so she had to cancel two patients that afternoon. This had never happened before, was not a routine procedure.

McIntyre wrote his letter to Dr Cullen to make it appear as though Mills' conduct was unprofessional. Again this was information not obtainable elsewhere. It is obvious that McIntyre was a witness to the events.

The two other statements he wrote to Dr Cullen were again fabrications from the September 22, 1999 investigating hearing in which no stenographic record was made. Mills had brought with her some of the ground soil from beneath her building (gasoline/MTBE/benzene laden), some of the public records and newspaper articles. Mills was asked why she did not xerox records in her office. Mills explained that she used a copy machine at Staples, her brother's law office and at the hospital. Mills explained that she was spending monies on a tympanometer, hemoglobin testing and other large expenses for

the office and did not have the finances for a high speed copier. Mills then explained that a doctor she knew was adversely affected by the toluene in his copy machines at his office.

Again, McIntyre fabricated to Dr Cullen, " She (Mills) did not own a copy machine because they emitted, "poison.." McIntyre made a mockery of the serious issues regarding the hazardous waste site to which her office building was part of. The he wrote, " her patient records are filled with extraneous notes that have nothing to do with care rendered and appear to be self-justification for her difficulties." He was referring to the other complainants' medical records. The girls' mother had written a complaint (from an altered tape recording) stating that Mills in her belief, had become "irrational and bizarre" to believe that gasoline vapors existed in Mills' building. When the records were prepared for transfer, Mills wrote one line that they were leaving her care due to their disbelief that there were "toxins" in Mills' office building(s). The state is still cleaning up the property on one of them. (Norcal Insurance Malpractice handbook tells doctors to place any issues of "dissatisfaction" of the parent or patient in the medical chart) This was the mother's own statement of dissatisfaction. There were no extraneous notes in the charts that did not have to do with their care.

Many calls and letters went to third parties during the time that the process was to have been "confidential." McIntyre wrote to the Florida Agency for Health Care Administration stating, " ...that subject is a mentally impaired practitioner..." Date received 5/4/2000

This was 4 months prior to Mills' hearing in the matter even beginning.

Mills' counsel wrote on June 2, 2000, "... the allegation that Mills is a mentally impaired practitioner is entirely without merit. In point of fact, the Rhode Island Board of Licensure has identified no expert witness who is qualified to testify on the subject of mental impairment where as we have two licensed psychiatrists who will testify that Dr Mills is not mentally impaired such that she is incapable of practicing medicine within

the standards required in this state. ...../s/ Paul Foster

This list of means by which he was a witness are immense: 1) he aided the mother in altering her complaint mother testified to the fact, " the man in the red tie helped me" 2) he " convinced" the other mother to write a letter (perjury)as she wrote, " you convinced me you were out to help her" 3) fabricated what doctors in Mills' call group would testify to including making the egregious statement that " Dr Russo will testify to her threatening him antisemitic." 4) attributed delays to Mills when they were of his own making (Appendix C) 5) prejudicing Hearing panel with his own theories and questioned Mills about the September 22, 1999 investigating hearing even when the AHO asked him to refrain from doing so by stating, " it was in the nature of the settlement... for which we are here..." 6) as personal friend of Felice Fryor of the Providence Journal News, McIntyre " clarified" for her certain statements. Fryor wrote in the news that Mills is " bizarre," rather than what was written in the summary suspension- "... bizarre behavior in the transfer of medical records..." doing so as she stated because "Mr McIntyre clarified statements for me."

McIntyre stated his own opinions and beliefs at the hearing regarding how a doctor should make a "differential diagnosis"of a patient. He stated that a doctor can only make decisions based upon the objective- what the doctor sees or believes- and not upon the subjective- what the patient or parent see or believe.

He was referring to the subjective statement made by the parent, " my brother in law thinks my daughter looks like an elf." Mills thought of "elfin facies" syndrome not just due to this statement but because the infant was failing to thrive, with weight loss, head circumference declining, a possible heart murmur and a history of reflux and vomiting.

(Another parent told Mills that she believed her two year old girl was "yellow." It was Mills' first visit seeing this child and Mills took the mother's beliefs as to what she saw and

ordered some tests. The child had hereditary spherocytosis, both lab tests were abnormal. The mother helped in making her daughter's diagnosis which had gone improperly treated by her previous doctor for two years.)

This once again shows the inconsistent and inappropriate conclusions of McIntyre by which no reasonable doctor could practice meeting any standard of care.

McIntyre forced Mills to release other medical records without the parent's signature. This took place in March 2000 six months after she last saw patients. Mills' counsel wrote to him March 23, 2000 as follows:".....Dr Mills has every right to require that signed releases be presented prior to providing records. We have attached a copy..... to this response not withstanding the fact that those releases, while acknowledged by the complainant, have not been signed. In deference to the Board, we are complying with you request even though the request itself does not comport with the law."....

/s/ Paul Foster

This Appendix clearly shows the myriad of discussions and events to which McIntyre was the only person other than Mills to privy to. It also shows that Mills' due process and equal protection of law was denied her as McIntyre committed acts in violation of both state and federal law.

APPENDIX B- 24

Pediatrician, Robert Eden, M.D. testified for the Medical Board. He was deposed June 1, 2000 and testified before the Hearing Panel October 19, 1999. He was fully aware of what issues and topics, he would be questioned about. These were: Williams Syndrome, failure to thrive, NEAR SIDS, transfer of medical records, toxic buildings, and most importantly to make a decision to all reasonable medical certainty on whether Mills was competent to practice medicine (Pediatrics).

"The law requires that he who deposes to fact should

have means of knowing it..... conjecture,.... opinions are not sufficient." S v. Allen 8 N.C. pg 9. Brouillette vs Weymouth Shoe 1961, cites "....objections to conclusions based on hearsay of layperson..." Eden admits that he was only given the complaint letter of the mother and he testified, "assuming the information given to me to be true." When asked if he knew if Mills' building contained hydrocarbons (vapors from gasoline) he answered, "no." Eden simply accepted the statements of the mother as true without doing any independent investigation.

McIntyre showed Eden a medical textbook with a chapter titled, NEAR SIDS-APNEA OF INFANCY. Appellant and her counsel were given no notice of the document being introduced at the hearing. Reddington vs Clayman 1956, "... no less than three days notice must be given," to the adverse party regarding documents that will be introduced at the hearing. On December 3rd 1999, counsel for Mills wrote to McIntyre, " the board has failed to provide and permit proper discovery as expressly permitted by the Rules and Regulations of the RI Department of Health and by State law, ..." This was in a Motion to Reassign because McIntyre failed to provide witness lists, specification of charges or discovery prior to setting several hearing dates. Counsel furthered, " the denial of this request will unfairly and unlawfully prejudice Mills and deny her the opportunity for a fair hearing." The board did not provide discovery and presented Eden with this text, violating Mills' due process and equal protection of law.

Eden testified to "possibilities" rather than probabilities. As in State vs Sullivan 1957, " ...seek answers in probabilities,..." Eden testified, " Mills possibly inappropriately accessed DCYF," and "potentially has impaired judgment." He even testified that it was his belief that Mills was "wrong about the possibility of Williams Syndrome." This is patently absurd because the definition of "possible," is that it may or may not be. Mills never gave a diagnosis of Williams but wrote in the patient's chart, "rule out possible Williams, malnutrition, malabsorption." This is only a differential diagnosis that aids one in coming to a diagnosis. It is not a diagnosis.

For the above reasons Mills was not afforded the opportunity for a fair hearing with Dr Eden testifying about issues he knew nothing about. When asked, " what is Williams Syndrome, " he answered, " I don't remember offhand." He testified he could not put failure to thrive together with microcephaly (small head circumference) which is seen in Williams syndrome.

He testified that ultimately he would transfer medical records without the signatures for same. This is in violation of state and federal law. He testified that he had never had it happen to him that a parent refused to sign for records. He testified, " that has never happened to me," when referring to a suspicion of abuse on children that are no longer in your care. He said that the state would have to do the exams and file the PRE. This is exactly what should have occurred when Mills made the hotline call but could not file the PRE.

Rather what took place is that a personal friend of the child abuse investigator (and coworker) Ed O'Donnell "downgraded" the call to a "non investigation" and then as the DCYF report reads, " Since Steven Brown is an employee of this Division, a pending or "incomplete" finding against him could interfere with his job status, and therefore it was agreed that the finding of this downgraded "investigation," would be "unfounded" even though the children had not been interviewed.

They were not only not interviewed, they were not examined. The report reads further, " ... the Browns' concerns ....were that Mills' behavior had become inappropriate and possibly indicative of illness, paranoia or psychosis. They intervened to assist the pediatrician in finding evaluation and treatment services so that she could one day return to pediatric care."

Eden testified that Mills' medical records "met the standard of care," and that there was " nothing to indicate incompetent." Yet the Court determined that, a competent physician would not have thought of Williams syndrome.

It violated Mills' right to equal protection of law and due process to be subjected to a hearing not in accordance with the

Rules of Civil Procedure, Administrative Procedure Act or RIGL

In letter dated November 23, 1999, Mills' counsel wrote the following to McIntyre, ".... Your response today that the Board may possibly call expert witnesses or personnel from the RI Hospital is not responsive to my request or the rules... Nor has your production of documents been responsive unless you are prepared to inform me that one or more of the complainants did not submit original signed complaints to the Board but rather made their complaints know in other fashion. The Board has clearly elected to follow a course of action wherein they have selectively applied portions of the laws of this state while ignoring those provisions that do not comport with the Board's intentions in this matter. For that reason, I request immediate re-instatement of my client's license due to the Board's willful and deliberate violation of the licensing laws and Administrative Procedures Act." /s/ Paul Foster

APPENDIX B-25
ELECTRONIC COMMUNICATIONS AND TAMPERING

The purpose of 18 USCS 2510-2520 is to prevent improper invasion of privacy. Article 250.25 (NY) and other such laws are to prevent tampering with electronic and other oral communications.

Under Act 1986 18 USCS 2510(111), "...any person whose wire or oral communication is intercepted, disclosed...(1) have civil cause of action against any other person to....,disclose or use such communication...." Under 18 USCS 2511, " ...a good faith reliance on a court order or legislative authorization shall constituted a complete defense to any civil or criminal action brought under this chapter....." and further citing under 30 Am Jur Proof of Facts at 113 and Omnibus Crime Control and Safe Streets Act of 1968 (18USCS 2520), Act,25 ALR Fed 759. Fed Procedure L Ed 8 Fed Proc.L Ed. Criminal procedure 22:231.

"...Federal law controls questions relating to accrual of

cause of action under statute..." Boddie v. American Broadcasting Co. 1984 AC6 Ohio 1923, 15 Fed Rules Evid Serv 833 1988 ND Ohio. "...It is illegal to disclose contents of wiretapp" 18 USCS 2511, Anthony vs US (1981, CA 10 Okla) 667 Fed 870 cert den (1982) 457 US 1133, 73 L Ed 2d 1350,102 S.Ct. 2959. In US v McIntyre (1978, CA 9 Ariz) 582 F 2d 1221 "...police officer acts outside scope of duties with "bad purpose" and hence "wilfully" within meaning of 18 USCS 2511 where he or she engages in electronic surveillance without court order and in absence of emergency describes in 18 USCS 2518(7);also citing US v Ross (1983 CA 8 Ark) 713 F 2d 389.

Patient -doctor communications are considered private communications -in fact governed by privacy acts when involves adolescents asa visit of July 30, 1999 to Mills' office. It is with reasonable expectations that the communication between parent mother Joyce Brown and Mills on that date was to be a private communication.(US vs Padilla 1975 CA 1 Puerto Rico 520 F 2d 526 and Holman vs Central Ark Broadcasting). " A persons' reasonable expectation of privacy is a matter that needs to be considered on a case by case basis taking unique characteristics and facts into consideration with 1) subjective expectation of privacy and 2) was expectation objectively reasonable (no reasonable doctor-pediatrician would anticipate their conversation being monitored electronically." Benford vs Amer Broadcasting Co 1982, Dc Md 554 F supp 145. "...state law... preempted by Federal regulation....court to consider relationship between state and federal law ...interpreted and applied."

In the instant case, mother Joyce Brown contacted Mills' office on July 26, 1999, stating her 4 year old needed a day care form signed and her 16 year old needed a camp form signed both before August 3rd. Appointments were scheduled for Friday July 30, 1999. On July 28, 1999, Mills became aware that yet another building housing her offices had a serious contamination problem. On the morning of July 30th, Mills' secretary Tina Von Hein, contacted every scheduled patient to inform them that the office could not be used in its usual manner and that appointments had to be rescheduled as house calls (house calls

were previously done when Mills learned [monitoring prior building- MTBE/gasoline/benzene] and DEM confirmed this contamination).

The only parent Tina could not contact was Joyce Brown. Tina made several calls to no avail. Finally, one of the daughters answered, stating the mother had already left for the office. (Mother testified at hearing that she was home all morning and that noone had tried to reach her; Tina's affidavit and witness testimony were denied Mills) Tina met the mother in the driveway and explained that the office could not be used in its usual manner but the mother insisted that she get her children's forms signed. Mills had what she thought was a good rapport with this parent; had done house calls to her home previously with the parent stating she actually enjoyed not having to go to the office. This time the mother was adamant, refusing to reschedule alleging her daughters would be barred from camp all summer and from day care if the forms were not filled out right then and there. She adamantly refused Tina's suggestion to follow her back to her home (since all other patients were cancelled Mills could accomodate the mother in this way).

Some physicians would just sign the forms (there were no standard consistent regulations regarding camp forms though this has become so with incidents of sudden death in athletes). Mills did not conduct complete physical exams; there was no disrobing; it was as the expert Eden testified, " it would be acceptable if it was a very very very cursory exam barely representing a true physical exam." At the rear of the building in the secretary's van (75 feet from the main street) in a private and secured area, Mills asked a 16 year old girl some questions (" do you smoke cigarettes, drink alcohol, do any drugs, are you sexually active, ever depressed or have suicidal thoughts?"). Mills took her pulse to determine if there were any arrythmias, then with Tina's assistance obtained a fingerstick hemoglobin level (as done by all diabetics) to determine if she was anemic. This girl had not had a well check in two years- the mother stated they were healthy and always busy with school and sports

and she knew that they needed to be see. This is the only reason the privacy questions were asked that day. The American Academy of Pediatrics informs pediatricians to ask these questions at all visits for this simple reason- teens often do not keep up on their well visits.

It is a highly contested issue that this mother would allege that this visit took place on a sidewalk along the main street so " all driving by and walking by could hear." This is so patently absurd, so defamatory, as to make one wonder why she would want to harm a pediatrician. She wrote in her complaint, " Mr McIntyre you convinced me to write this because you were out to help her. I do not want to harm Dr Mills." This mother befriended Mills writing on a patient survey at Mills' previous office October 14, 1998, " I would never entrust my children's care to anyone else." She wrote "Very," under personable to describe Mills. She befriended Mills, asking Mills about her buildings and knew before most other parents and patients what was found and happening with each of the buildings. On her walk in sick visit for the entire family on February 1, 1999, the Browns were the first patients to know that the previous building was found to have contamination. Mills had been called by Braun Intertec that very day with the results of the 3M Corp monitor reports. Mills could not confirm the results until she received the report in writing (confirmed February 5, 1999).

Why would a family who listened, empathized with the seriousness of the problems then make a complaint that Mills was "becoming irrational and bizarre" to believe the contamination existed?

The letter of complaint stating, " you convinced me to write this, " falls under the " urged and advised" clause. It is misleading conduct to make false statements to convince another and to lie " engaging in misleading conduct to another person...," US vs Rodoliz CA 2 NY 786 F 2d 77, cert den (1986) 479 US 826 93 L Ed 2d 52, 107 S Ct. 102

McIntyre engaged both witness mothers in such a manner. As in Us vs De Zann 1998, " knowing what a question means and giving knowingly untruthful answers in response is

"perjury." The words " bizarre, and aggressive, " were the words of McIntyre. Brown testified that it was a " bizarre" statement that Mills made regarding having benzene and gasoline vapors in her building. The Browns knew this to be true before most other persons. The question then remains as to why this parent adamantly had to have those forms signed that day of July 30, 1999, refusing all other means to do so except remain at the office.

A three page complaint letter was sent to the board addressed to Mr McIntyre. It states, " this morning I received a call from Dr Mills." This dates the time of writing of the letter to August 18, 1999 almost three weeks after the visit took place. Even if the mother took notes shortly after the more than one hour visit (mother questioning Mills about her buildings and other conversation) it is apparent that she did not write this letter from memory. She had no paper or pen in hand at the visit. She had to return to her vehicle on one occasion, abruptly interrupting conversation (noted by Tina Mills' assistant).

The mother was able to write those questions Mills asks of all teens, in the exact order in which Mills asks them. Mills presented this letter to Tina and it was her opinion, as well as many others, that this mother had to have utilized some type of recording device to be able to produce the complaint letter as it was written. That having been said, statements made by Mills were altered. One example being, "...her date thought she was crazy." Mills had told Brown that on Saturday July 11 th while cleaning the office (newly bought July 7th) a friend met her at the office for a date. Mills told the man that her buildings were contaminated and it was Mills' thought that until she showed him the pipes and extraction equipment he might have thought she was "crazy" to believe all this. Brown altered this conversation as it transpired and wrote, " Mills' date thought she was crazy." Brown also testified that on the afternoon of the visit July 30, 1999, she spoke to Mills by phone and according to her Mills sounded, " suicidal." Yet, if one reads her complaint letter, it states, " Mills did not return my calls that afternoon, the next day Saturday; not until Sunday." In fact, the mother did not

contact Mills until Sunday morning, beeping her at about 10 AM. Mills called her back immediately even though she was off call and out of state. At that time they merely discussed the test results on one of the girls (unlikely one could determine one's mental state from such a call). There is absolutely no possible way that Brown could allege that Mills "sounded suicidal" on the afternoon of July 30, 1999 when they did not even speak that afternoon (per her own affidavit - the one credible statement made)

Without an electronic device, this letter could not have been produced especially not on August 18th 1999 from a more than one hour visit on July 30, 1999 wherein no notes were taken. This letter was produced for the sole purpose of destroying Mills' career for the agenda of a few persons abusing their powers. No investigation took place by the board to determine if in fact there was contamination at Mills' building(s). All other parents wrote fine letters of support for Mills having had to endure the same situations and events which their Pediatrician unfortunately had to endure. Some were even sent to the board but were ignored.

The Federal laws regarding tampering, perjury, and disclosure of private communications are very stringent and should be seriously considered in the instant case. No doctor could practice under the circumstances that these few individuals placed Mills- even if they did not have the unfortunate set of circumstances with building contamination as Mills had.

APPENDIX C

TRAVEL OF DELAYS AND CONTINUANCES BY MCINTYRE

The following delays and continuances are presented because of the unethical misrepresentations and misstatements found in Mills' Board file that she was responsible for any of the cancellations of board meetings which she was required to attend (in particular the egregious act of the board/McIntyre producing an in office memo falsely alleging Mills cancelled the December 23, 1998 meeting due to "illness" when Mills was not ill, had to repeatedly reschedule patients- clearly evidenced by her logs of patient care) This entire sequence of events taking place to as one Psychiatrist stated, " the politics of it will keep you out of work a long time."

September 29, 1998 told there would be meeting at board on October 7, 1998 so rescheduled all patients

October 7, 1998 McIntyre cancels meeting and reschedules for October 15, 1998 so rescheduled all patients

October 9, 1998 personal call to Mills' office (Appendix B -23)

October 12, 1998 McIntyre cancels October 15, 1998 meeting and Mills is informed by counsel that she has not yet retained

October 13, 1998 meeting with prospective new counsel is cancelled by this counsel

October 15, 1998 meeting at Board cancelled but Mills meets with new counsel and is handed the only complaint (typed on Medical Board stationary)

First Counsel in case retained- Seth Bowerman

November 11, 1998 Mills' counsel informs her of a letter he received on November 4, 1998 which had set a meeting at Board for November 6, 1998 at 9 AM (Mills did not receive this letter until her next counsel obtained her entire file from Board November 11, 1999)

Neither Mills' counsel nor the Board informed her of a scheduled meeting on November 6, 1998 nor of its being cancelled

November 12, 1998 Thursday 8:15 AM counsel for Mills calls cancelling a 9:15 AM appointment (counsel had informed Mills to meet him at his office to go to a board meeting (all patients were rescheduled for 2 PM)

December 2, 1998 McIntyre calls Mills to her office 10:15 AM McIntyre schedules Board meeting for December 23, 1998

December 3, 1998 Thursday Mills' day off

December 14, 1998 counsel calls Mills 10 AM to inform her the meeting of December 23, 1998 at Board is cancelled

(November 11, 1999 when received entire file from Board Mills first becomes aware of a memo from the Board which states Mills is responsible for cancellation of the December 23, 1998 meeting for reason of "ILLNESS")

MILLS NEVER CANCELLED THIS APPOINTMENT AND WAS NOT ILL

(Mills saw patients that day and the log of visits shows that these patients were walk-ins and reschedules because she had cancelled patients to attend the meeting.)

December 24, 1998- 12 minute conversation with Mills' counsel regarding all the cancellations/inconvenience to patients

January 27, 1999 scheduled meeting at Board cancelled again by McIntyre

January 28, 1999 Mills' counsel cancels her 10 AM meeting

February 4, 1999 2nd meeting with Mills' counsel at 12 noon

February 10, 1999 Counsel for Mills writes to McIntyre for ANY and ALL complaints that have been filed against Mills and to be presented to counsel on or before February 12, 1999

February 24, 1999 Board meeting Wednesday is held
ONE complaint presented and is the one presented to Mills October 15, 1998
September 22, 1999 Meeting at Board
Paul Foster-second counsel retained November 11, 1999 obtains entire file from Board and delivers copy to Mills

Continuances with new counsel regarding the dates for a Hearing

October 29, 1999 Mills not represented by counsel but date set for hearing (ten days from October 19, 1999 date of temporary suspension) NO WITNESS LIST of Specification of charges

November 5, 1999 Another date set for Hearing (Again NO WITNESS LIST of Specification of charges

December 1, 1999 Another date set for Hearing for 11 PM and Mills' counsel not notified (Most likely an error by board)

December 10, 1999 McIntyre produces first witness list

January 24, 2000 Mills revises the witness list

June 20, 2000
Bruce McIntyre to Paul Foster
I am in receipt of your letter dated June 2, 2000 regarding Dr Mills' request for a hearing. It is my intention to get to this matter sometime in July..... /s/ Bruce McIntyre

June 22, 2000
Paul Foster to McIntyre

I am in receipt of your letter dated June 20, 2000. In that letter you indicate that it is your intention to get to this matter sometime in July. Would you please advise me as to what dates in July you have available ..... /s/Paul Foster

July 11, 2000
Foster to McIntyre

I am writing to see if I can obtain from you some dates for hearing on this matter. In your last correspondence to me, you indicated that we would have July hearing dates, however as we approach the middle of the month that begins to appear less and less likely. Would you please advise me as soon as possible as to what dates will be made avaiable...../s/Paul Foster

July 13, 2000
McIntyre to Foser

I am in receipt of your letter regarding hearing dates for Dr Mills. I am attempting to get this scheduled as soon as possible. .... I will do everything possible to get this matter heard before the end of summer.....Will you please give me as many dates as possible beginning July 24, 2000...../s/Bruce McIntyre

July 14, 2000
Foster to McIntyre

I am responding to your fax of July 13, 2000 requesting dates that I am available to commence the hearing in this matter...../s/Paul Foster

August 2, 2000
McIntyre to Foster

I am confirming both the fax I received today as well as our phone conversation with reference to the scheduling of the administrative hearing. That hearing will commence on August 23, 2000 at 9AM and we will schedule further dates as soon as possible./s/ Bruce McIntrye

The request of June 2, 2000 was not responded to by McIntyre for 18 days. In fact the request on June 2 was for hearing dates and though McIntyre responded on June 20th and July 13th (only because another request was made July 11th) he did not give any dates until August 2, 2000(then only one date for the hearing to commence) It took McIntyre TWO full months to inform Mills of one hearing date. The hearing once commenced reconvened only once a month and only with repeated demands for a final date was Mills given the date of December 7, 2000.

APPENDIX D

Supreme Court
No 2001 296-Appeal

Geraldine Mills
v
Rhode Island Department of Health
Board of Medical Licensure and Discipline and
Bruce McIntyre, Esquire

ORDER

This case before a single justice of this Court in accordance with Rule 12A (3) of the Rules of Appellate Procedure. After examining the prebriefing statements filed by the parties, the justice enters the following order: 1) The parties are directed to appear before this Court or a hearing panel thereof in accordance with Rule 112 A (5) at a date to be selected in order to show cause why the issues raised by this appeal should not be summarily decided. 2) The plaintiff may file a supplemental memorandum not exceeding ten (10) pages in length within the (10) days of the date of this order. Thereafter, the defendants

may filed a supplemental memorandum not exceeding ten (10) pages in length within ten (10) days after service of plaintiff's memorandum.

Entered as an Order of this Court this 24th day of February 2004

By Order,
/s/ Michael Cafferty
Clerk

Enter:
/s/ Flanders J.

Supreme Court
No: 01-296-A

Geraldine Mills, M.D.
V
Rhode Island Department of Health et al

ORDER

The defendant's motion to strike certain items attached to plaintiff's supplemental memorandum as allegedly not part of the record on appeal is denied, without prejudice to defendant's renewing their challenge to these items at oral argument.

Entered as an Order of this Court this 4th day of June 2004

By Order,

/s/ Michael Cafferty
Clerk

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Providence SC Superior Court

Geraldine Mills, M.D.
Vs PC 01-1034
Rhode Island Department of
Health Board of Medical Licensure et al

MOTION TO DISMISS

HEARD BEFORE

THE HONORABLE JUSTICE PATRICIA A. HURST

JUNE 19, 2001

June 19, 2001, A.M. Session

THE COURT: Mills vs Rhode Island Department of Health
Ms. Turilli: Good morning, your Honor
The Clerk: Counsel, state your name for the record please.
Ms Turilli: Anne Turilli representing the Rhode Island Department of Health Board of Medical Licensure and Discipline, as well as Attorney Bruce McIntyre
Mr D'Ambrosio: Damon D'Ambrosio for the plaintiff
The Court: I went through these papers, including this late filing that was handed to me this morning which is a supplemental statement prepared by the plaintiff herself. Now, I looked at the papers, As best as I can make out, the complaint or the plaintiff's complaints arise out of an administrative action. Now, it's true that other claims can arise out of an administrative action, but

this complaint is near indecipherable as to what the claims might truly be. There's a civil rights flare to it, but when the complaint is examined closely, the pleadings test isn't met. It has the flavor of an administrative appeal, but raised the other issues. It doesn't seem to me that this complaint states a claim either on administrative appeal or civil rights. There's no exhaustion here and the pleadings test on the other claims aren't met. I'm inclined to grant the motion to dismiss, but I will hear you on the objection.

Mr D'Ambrosio: Well, your Honor, the complaint essentially alleges misconduct by the defendants throughout the course of an administrative proceeding. That is the gravamen of the complaint, that the administrative proceeding was deficient and tainted as a result ----

The Court: Counsel, she's either making an appeal under the APA because the administrative proceeding contained errors of law or anything else under the APA. If she's alleging misconduct actionable misconduct–strike that-actionable misconduct on the on the part of the people involved. Then she's alleging a civil rights claim. That's what I am saying. There's a little flavor of each of those here, bu the complaint really doesn't come forward and state a cognizable claim as to either. That's the problem. I don't see that this litany of things that she takes issue with lay out a cognizable claim on one basis or another, civil rights or administrative appeal.

Can you address that for me please?

Mr D'Ambrosio: Well, in terms of the Administrative Procedures Act, there's been no finality to the decision of the Board below.

The Court: Right

Mr D'Ambrosio: Which would essentially preclude any action under the APA

The Court: Right, and I think that we require finality because this thing is pending, and I think exhaustion is appropriate here.

So, that leaves us with what, a civil rights claim?

Mr D'Ambrosio: Well, I don't know. Granted there's a hybrid

flavor to the complaint, but the claim essentially alleges civil rights violations, both individual and representative capacities by the defendants. There are claims for money damages made within this as well as claims for injunctive relief.

The Court: It's not an administrative appeal, but to the extent it purports to be, there's been no exhaustion. So, on that basis I should grant the State's motion.

Mr D'Ambrosio: Except-----

The Court: Now, if it's an administrative— I'm sorry. If it's a civil rights claim, to the extent that there's a civil rights claim being made against the State itself, we know that the Will case precludes civil rights claims being made against the State itself. That leaves us with the individuals. I think it 's possible the civil rights claims can come from administrative proceedings as long as there's actionable conduct. This then takes me to the pleadings test, and I don't see that these pleadings lay out sufficient basis for an actionable civil rights claim.

That's where I'm headed with this, counselor. And I know you didn't write the complaint. I appreciate your efforts in trying to explain it, but its difficult to explain.

Mr D'Ambrosio: Well, yes it is Judge But let me just address the exhaustion requirements. I don't believe exhaustion would necessarily be required. I think the Supreme Court has ruled that it would be futile—where proceedings would be futile within the administrative forum, that exhaustion is not necessarily required.

The Court: Why would they be futile? Isn't the thing pending decision?

Mr D'Ambrosio: Well, the complaint lays out a series of violations that essentially say that the—there's a foregone conclusion as to what the result of the administrative proceeding will be and that any further actions, therefore, on her part would be futile before that Board.

The Court: But, if the resolution turns out to be as she suspects, she'll take an appeal and this Court will have an opportunity to review the proceedings at the administrative level and determine whether the disposition was the appropriate one given the standard for review under the APA.

Mr D'Ambrosio: That is correct. That is correct.
The Court: So it makes no sense to me to try to review the proceedings at the administrative level when the outcome may or may not go the way that she expects. It very well may, but I can't assume that the result she anticipates is definitely going to happen. So, aren't we better off having the result come out and then understanding what are the flaws in it?
Mr D'Ambrosio: Save for the fact that she would have to deal with the civil rights claims outside of the Administrative Procedures Act in any event.
The Court: Well. She would because the two wouldn't be tried together. If she has a civil rights claim that's going to be litigated under the state statute or the federal statute. The question under the APA would simply be this court's review of the record below on an application of the criteria under the APA. So, you wouldn't even have the same judge doing both ,and you certainly wouldn't try the claims together.
Mr D'Ambrosio: That's correct. But, I guess the concern would be, your Honor, that if this Court were to grant motion of the defendants in this case, there could be a question of collateral estoppel in a civil rights claim.
The Court: No, this is a motion to dismiss based ono the face of the pleadings. I don't think that you have an adjudication of the matter on the merits. If we dismiss the administrative appeal to the extend this is an administrative appeal, if we dismiss that because of a failure to exhaust her administrative remedies, she simply gets those remedies exhausted and then files her appeal accordingly. If she wishes to bring a civil rights claim against someone, she can simply file a complaint that makes out a cognizable claim and asserts the factual basis for the claims against the individual who she alleges to have done her wrong. I don't- and quite frankly, I'm not sure that this really is a civil rights claim. It has the flavor but it doesn't make out the claim. It doesn't allege that.Counsel?
Ms Turilli: Your Honor, and I would– that would be precisely the State's position, that this does not state a civil rights complaint. What we could glean from the complaint is that

Count I and II state that there was a failure to forward the patient's complaint the patient's complaint, within five days to Geraldine Mills, There is absolutely no statute, rule or regulation out there requiring the Board to forward complaints to physicians within five days of their receipt by the Board. Now, I'm frankly rather amazed because I've seen it cited so many times in the papers of this case, and often in quotation marks as well with the citation next to it, and I can't find the statute,rule or regualtion to that effect because one does not exist.

Count III claims that the Board did not forward a list of doctors for psychiatric evaluation for many months. Again, there's absolutely no statute, rule or regulation requiring the Board to forward such a list at all or within a certain period of time. Count IV claims that Attorney Mcintyre—

The Court: What you're saying is that she's not alleging a violation of a protected interest?

Ms Turilli: Yes.

The Court: Or Liberty interest?

Ms Turilli: Precisely. She hasn't alleged procedural violations at all to give rise to a civil rights action. Count IV alleges that she didn't like the consent agreement that the agency sent her. She found the introductory language in it to be unacceptable. Again, she can't turn to a single statute, rule or regulation that would say , you know, that governs the language contained in consent agreements with the Board. I mean she certainly throws a lot out here, but nothing rises to the level of a civil rights cause of action. Nothing gives rise to a cognizable cause of action.

Count V she alleges that the Board's subpoena on Rhode Island Hospital was in breach of confidentiality agreement that she had with the hospital. The Board wasn't a party to that agreement, and in any event the Board has authority under Rhode Island General Laws 5-37-1.3 (6) that expressly empowers the Board to subpoena information in connection with any investigation. So, its sort of this litany of issues, and I think that's how you Honor put it as well, that simply don't rise to the level of a cognizable constitutional claim. And I turn, finally to Count VI. Now Count VI is a little bit different, This is where

the scale tips back to as your Honor said, to something more like an appeal of what's already currently before the administrative hearing panel. So, she's precluded on Count VI because she hasn't reached finality on that issue. That issue is expressly subsumed within the current agency proceedings which are moving finally towards finality. Although, I should update the Court that Mills has made a third motion to reopen those proceedings to introduce supplemental documentary and testimonial evidence, and that's currently pending before the agency. And lastly, as to Count VII, she claims that she was not afforded a hearing within ten days. She was afforded a hearing within ten days and her attorney sought a continuance of that date. And, also your Honor, that also is an issue that should be raised and is subsumed within the agency decision again, so that's something that she will have to go through the normal exhaustion of administrative remedies on And I believe, the last Count VIII claims that witness lists were untimely among other things. Again, there's no statute rule or regulation that contains a requirement that witness lists be exchanged by a certain time between the Board and a respondent. And in any event,the Board promptly provided a full copy of its entire files to Mills' counsel.
The Court: Regardless of the Board's conduct, it seems to me that this stuff, for lack of a better word, is either part of an administrative appeal or part of a civil rights claim. And if it's an administrative appeal we don't have any finality. If it's a civil rights claim it doesn't meet the pleadings test..
I'm going to grant the motion.
Ms Turilli: Thank you your Honor.

APPENDIX D

Supreme Court
No: 2001-296-Appeal
(PC 01-1034)

Geraldine Mills, M.D.

v.

State of Rhode Island Department of
Health Board of Medical Licensure and
Discipline and Bruce McIntyre, Esq.

ORDER

This matter came before the Court for oral argument on November 3, 2004, pursuant to an order directing all parties to appear in order to show cause why the issues raised on this appeal should not summarily be decided. After hearing arguments and examining the memoranda submitted by the parties, we are of the opinion that cause has not been shown and that the issues raised by this appeal should summarily be decided.

The plaintiff, Geraldine Mills, M.D. (Dr Mills) appeals prose from a Superior Court order dismissing her complaint for failure to state a claim upon which relief could be granted. Super R. Civ. P. 12 (b)(6). The plaintiff's suit against defendants, the State of Rhode Island Department of Health Board of Medical Licensure and Discipline (board), and Attorney Bruce McIntyre stems from the board's temporary suspension of plaintiff's license to practice medicine. 1 Presented with a nearly incomprehensible complaint, the trial justice found that in substance, plaintiff's claims appeared to constitute both an administrative appeal and a civil rights action. Concluding that neither theory survived analysis under the admittedly elastic

standard of Rule 12 (b)(6) , the trial justice granted the motion to dismiss.

The trial justice found plaintiff's complaint to be in part in the nature of an administrative appeal, and noted that the administrative appeal was still pending. After addressing the administrative appeal, the trial justice turned her attention to the apparent civil rights claim, and concluded that as pled, the action could not continue. First, defendant McIntyre is statutorily immune from suit.2 See G.L. 1956 5-37-1.5 Second plaintiff is precluded from bringing a civil rights action against the state or its agencies. See Will v Michigan Department of State Police 491 U.S. 58 (1989). Finally, to prevail on a civil rights claim " a plaintiff must allege deprivation of some constitutional right under color of law." Graff v Motta 695 A.2d 486,492 (R.I. 1977) (quoting Bell v Brennan, 570 F.Supp 1116,1118 (D.C.Pa. 1983)) Because Dr Mills did not allege any deprivation of a constitutionally secured right, the trial justice dismissed the complaint.

In her appeal, Dr Mills cites a myriad of reasons as to why the trial justice's decision was inappropriate and should be reversed, but this court is unable to assign value to any of her contentions. Although it is difficult to cull any cognizable legal argument from her memoranda, it appears that Dr Mills now contends that the trial justice abused her discretion in dismissing the complaint, inaccurately classified the complaint as a hybrid civil rights/administrative appeal, and failed to consider the misrepresentation claim that Dr Mills now alleges to have made in her complaint. We have reviewed Dr Mills' confusing submissions to the Court, and we find no merit in any of her argument.

Accordingly, the judgment is affirmed and the papers in this case are remanded to the Superior Court.

Entered as an Order of this Court this 17th Day of November, 2004.

/s/ Michael Cafferty

EXHIBITS E

I AFFIDAVIT OF BRUCE W. MCINTYRE

I, Bruce W. McIntyre, upon oath, depose and say as follows: 1) I am Deputy Chief Legal Counsel for the Rhode Island Department of Health. At times relevant hereto, I was General Counsel for the Board of Medical Licensure and Discipline and was a member of the Investigating Committee of same in regard to the suspension of license to practice medicine of Geraldine Mills, M.D. 2) I can swear to the facts herein of my own knowledge.... 4) Mills came to the attention of the Investigating Committee following complaints filed by parents of minor patients in September 1998.....8) The child about whom Mills called DCYF was approximately eighteen years of age at the time. 9) The board believes that this report was a false report in the practice of medicine and that it was made in retaliation because the subject of one of the reports the complainant is a DCYF investigator. The Investigating Committee secured a copy of the call to the Hot Line through an Order of the Superior Court.....20) ..... due to the confidentiality of such hotline, DCYF opposed the subpoena, filing a motion to quash in Superior Court. Justice Hurst reviewed the tape in camera and determined that the need for its use as evidence in the suspension proceedings outweighed the goal of confidentiality. See Superior Court Order attached hereto as Exhibit 3..../s/ Bruce W McIntyre /s/ Jacqueline Landry Notary Public

This affidavit states that McIntyre was a member of the board in particular the investigating committee. He has denied this emphatically in the case of Mills vs Nolan 04-739 in Brief in Opposition at page 3.

It states that Mills came to their attention when a parent made a complaint. McIntyre wrote to Dr Cullen on October 1, 1999 that Mills came to the board's attention when she was denied privileges at RI Hospital in 1994 (this is fact - Mills personally met with Milton Hamolsky, M.D. on July 26, 1994 to

discuss the discrimination at RI Hospital)

It is not fact that Mills reported about only one child who had attained 18 years at the time of the report to DCYF. Mills reported a 16 year old with a history of skull fracture, arm fracture, fall from chair resulting in epilpesy, fireworks burns, severe abdominal pain resulting in three hospital admissions and surgery with no diagnosis found to name a few. She had to report the NEAR SIDS on the sibling sister as well as her most recent injury on a rollercoaster (story now known to be false) as well as jaw fracture, limb fractures resulting in leg length discrpancies and scoliosis. She also had to report the mother's shoulder fracture (Mills informed was reason for cancellation of one of children's well check visits).

Lastly, it is of interest to note that though Justice Hurst allowed the subpoena of the confidential DCYF report regarding the injuries to these girls and mother, including a NEAR SIDS event, the same Justice declined to act on whether to allow a subpoena of the NEAR SIDS records (later denied by Justice Daniel Procaccini).

II STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS DEPARTMENT OF ENVIRONMENTAL MANAGEMENT OFFICE OF WASTE MANAGEMENT OFFICE OF COMPLIANCE & INSPECTION

IN RE; Speedy Petroleum, Inc LS 0741

IMMEDIATE COMPLIANCE ORDER

A. Introduction Pursuant to Sections 46-12-9, 42-17.1-2(u) and Chapter 42-17.6 of the Rhode Island General Laws. 1956 (1988 Reenactment) as amended you are hereby notified that the Director.....has determined that IMMEDIATE ACTION IS REQUIRED TO PROTECT HUMAN HEALTH AND THE ENVIRONMENT as the result of your violation of one or more of the following statutes and or regulations: the Water Pollution Act,.... Oil Pollution Control Act..... 1) Sppedy Petroleum Inc

is the owner of a certain parcel of property located at 95 Warwick Avenue in Cranston, Rhode Island ...10) On February 22 1999 a representative of the Department investigated a complaint of gasoline vapors at the property of Dr Geraldine Mills located at 107 Warwick Avenue Cranston RI. The DEM confirmed the presence of gasoline vapors. At this time, Lincoln Environmental, Inc was hired by the Department to measure the air quality at the above address and to investigate adjoining properties based on field screening of air.....11) Air monitoring of the basements and the first floors with field screening instruments was performed at 197 Warwick Avenue and the adjoining property of Mr Edward Walsh located at 3 Henry Street. Results indicate the presence of significant levels of volatile organic compounds (VOCs) in addition to gasoline odors in the basement and first floors. 12) At this time, due to the threat to human health and the environment, the Department retained Lincoln.....16) This confirmed release of petroleum products threatens or has already resulted in pollutants entering the soils and water os the State and has impacted at least one residence, one commercial building and underground utilities in the area....."

III. AFFIDAVIT OF SETH BOWERMAN JULY 25,2003

In the case of Mills vs Nolan on Petition for Writ of Certiorari in this Court 04-739, McIntyre submitted an affidavit of Mills' first counsel after discovery time limitations had long passed. McIntyre submitted this to help explain away why he did not comply with RIGL 5-37-1,3 (10) wherein it states, " to be provided with a list of names of evaluators acceptable to the board..."

STATE OF RHODE ISLAND SUPERIOR COURT
PROVIDENCE,SC

Geraldine Mills, M.D.
Vs
Patricia Nolan, M.D.
Director Department of Health PCNo01-4153

AFFIDAVIT OF SETH E, BOWERMAN, ESQ

I, Seth E. Bowerman upon oath depose and say as follows: 1) I can swear to the facts herein of my own knowledge. ...3) Dr Mills retained me to represent her because she felt the order for the examination was not warranted. I spent nearly 10 months attempting to persuade the Board that Dr Mills did not need the evaluation. The Board did not refuse to provide the names of acceptable physician evaluators during these negotiations..... 4) In September of 1999 Dr Mills and I appeared before the Investigating Committee and she agreed to cease practicing medicine while she completed the evaluation required by the Board.. The Board then provided the names of three physicians from whom an evaluation was to take place. 5) Dr Mills elected to choose another attorney to represent her shortly thereafter.

/s/ Seth Bowerman July 25, 2003

Mills did not retain counsel because she felt an evaluation psychiatric or physical was not warranted. She obtained counsel because of the false allegations being made against her by McIntyre and the statement he allegedly made to Day care director Karen Stanley. When Mills hired counsel she had not even received the first complaint- in fact Bowerman gave the typewritten altered complaint to Mills on October 15, 1998 during their first meeting when Mills signed to retain him.

Bowerman knew that Mills wanted the list of names of both medical doctors and psychiatrists. Mills to this day has

never received a list of medical evaluators. Certainly one cannot use the excuse for not tendering these names, at this point, as Mills refuses to see one at all. Bowerman gave Mills one name of a child psychiatrist, doing so on June 30, 1999. He neglects to state this in his affidavit. This shows that the board did indeed fail to provide a "list of names" by only giving one name- a doctor clearly not acceptable due to his specialty of child psychiatry. The Board did not just provide the list of names AFTER the meeting of September 22, 1999 as Bowerman swears to under oath. They provided the names on September 21, 1999 after Mills told Bowerman he would be dismissed as her counsel if he did not obtain those names. They were provided within a few hours of Mills' call to Bowerman at 8:30 AM September 21, 1999 (phone bill of 23 minute conversation available). The list of names is part of a 9 page fax sent to Mills on September 21, 1999 (fax with dates available). The list of names does not consist of THREE names but has FOUR names. In fact, McIntyre agreed to stipulate to this date as follows:

September 1, 2000

Dear Mr Foster:

I am in receipt of your letter dated 28 August 2000 regarding the above hearing. You have asked me to stipulate to certain facts.....I agreed to stipulate to the date the board gave Dr Mills' attorney a list of physicians from which an evaluation was to be done. The date of SEPTEMBER 21, 1999 is correct. The Board never gave Dr Mills a list.... because she was refusing to get any evaluation. The reason that Dr Mills got the list of .... much later was that she was refusing to get one at all. ..... Finally you have asked that I stipulate to the fact that the Board rejected your offer November 16, 1999 to have your client evaluated by mutually agreed upon physicians. The Investigating Committee never rejected this offer. Because of your clients egregious misconduct in October an evaluation was no longer a sufficient resolution of the Board's concerns. Therefore I am unable to stipulate to this as presented. /s/ Bruce McIntyre

June 30, 1999
Dear Dr Mills:

The Board of Medical Licensure and Discipline has requested that you submit to a psychiatric examination by Jeffrey Hunt M.D. I do not know Dr Hunt. I did learn that he is Chief of Psychiatry at Landmark Medical Center which is one of my clients. I spoke with several contacts there.....

/s/ Seth Bowerman

There were no negotiations regarding the evaluations. For months (February- June 1999) Mills did not hear from the board or McIntyre. On or about June 11, 1999 Mills contacted Bowerman again insisting he obtain the names for Mills. After many requests, Bowerman gave her one name, Dr Jeffrey Hunt (document available, dated June 30, 1999).

It is in violation of Mills' due process and equal protection that this affidavit would be submitted to the court after close of discovery yet Mills was not allowed to submit all her supporting evidence (denied on 5 motions to reopen at all levels in this case).

It is also in violation of Mills' due process and constitutional rights to be subject to the perjury of not only her counsel but that of McIntyre. There is no doubt that McIntyre wrote the affidavit that Bowerman signed. Regardless of the inconsistent information, it is clear that Mills has been violated by the process in which the RI Medical Board and Bruce McIntyre took her livelihood and maligned and slandered her with some " mental disorder," all " for a friend."

IV DIRECTOR OF HEALTH AND BREACH OF CONFIDENTIALITY

February 28, 2000
Dear Director Nolan:

I have reviewed your letter of February 16, 2000 with regard to Dr Geraldine Mills. .....You have recited RIGL 5-37-5.2(as amended) as the basis for making all orders of the Board public. .....subsection (e) of the above statute clearly indicates that the "decisions" of the Board shall be made public AFTER

the Board has concluded a hearing, conducted deliberations and rendered findings of fact and law. The statute which you recite expressly does NOT contemplate nor does it authorize the publication of a "decision" which is not based upon the completion of a hearing and the rendering of a decision.

You have recited in you letter the provisions of RIGL 38-2-2 otherwise known as the Access to Public Records Act. As you are aware, that statute does not mandate the publication of "Decisions" but rather allows for the public to request and obtain access to records. There is a huge difference between having access and publishing a notice prior to a hearing process being completed. .....It is my opinion that the Department has prematurely "published" a decision that has not been made after a full and fair hearing and in doing so has severely punished and prejudiced my client. /s/ Paul Foster

This is in violation o f all rights to due process, equal protection, constitutional, civil and otherwise. Just as the board/McIntyre reported to the Data Bank that Mills has a " mental disorder, " they published the full indefinite suspension before it even took place. They did so because it was their "sina qua non" that Mills would be suspended. McIntyre told the public himself, "it was in the works." All the supporting evidence in the world would not have made a difference. It was with futility that the Appellant had to wait until all Administrative Procedures were exhausted. Now as Justice Hurst stated, " so aren't we better off having the result come out and then understanding what are the flaws in it?" This Court must grant this petition so that these flaws can be addressed and allow Appellant her due process and equal protection.